MISCELLANEA PARLIAMENTARIA.

CONTAINING

I. Memorials of the manner of passing Bills, together with the Orders of the House. Collected by Observation, and out of the Journals, from the time of King *Edward* the Sixth.

By *HEN. SCOBEL*, Esq; *Cler. Parl.*

II. Precedents of Elections, Proceedings, Priviledges, and Punishments in Parliament. Collected out of the Common and Statute Laws,

By *R. C.* of the *Middle Temple*, Esq;.

With so much of the Learned Sir *Thomas Smith* as relates to this Subject.

III. The Opinion of most Learned Antiquaries touching the Antiquity, Power, State, and Proceedings in Parliament.

IV. The Method of passing Bills in the *LORDS* House, under twelve principal Heads.

By *HENRY ELSING*, *Cler. Parl.*

Never before printed.

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MEMORIALS

OF THE

Method and Manner

OF

Proceedings in Parliament

In Passing

BILLS.

Together with several Rules & Customs, which by long and constant practice have obtained the Name of

Orders of the House.

GATHERED

By Observation, and out of the Journal Books from the time of *Edward 6.*

By *H. S.* E. C. P.

London, Printed in the year 1670.

MEMORIALS

CHAP. I.

The manner of choosing a Speaker in Parliament.

THe day the Speaker is chosen, the Proceeding hath been in this manner: Some person (when the generality of Members are come and sit) doth put the House in mind, That for their better proceedings in the weighty Affairs they are come about, their first work is to appoint a Speaker; and recommends to the House some Person of fitness and ability for that Service and Dignity; which usually hath been one of the long Robe. If the House generally give a testimonie of their approbation, two of the Members (which for the most part were of the Council or chief Officers of the Court) going to the Gentleman named, and agreed to be Speaker, take him from his Place and lead him unto the Chair, where being set, they return to their places.

If more then one person be named for Speaker, and it be doubtful who is more

generally choſen; ſometimes one of the Members ſtanding in his place, doth by direction or leave of the Houſe, put a Queſtion for determining the ſame.

In the firſt Seſſion of the Parliament 1° *Jacobi*, Sir *Edward Phelips*, the King's Serjeant at Law was firſt named by Mr. Secretary *Herbert*, as fit for that place, in regard of his Knowledge of the Laws, the gift of Utterance, his long experience and Practice in Parliament; after ſome ſilence, the names of others were mentioned, but the more general Voice ran upon Sir *Edward Phelips*, who thereupon ſtood up, and made a Speech to excuſe and diſable himſelf; but the Houſe, notwithſtanding his excuſe, was willing to proceed to a Queſtion, and directed the Clerk, ſitting at the Board, (as the Order is before the Speaker be choſen, ſo it is entred in the Journal of that Seſſion) to make the Queſtion upon his name, *viz. All that will have Sir* Edward Phelips *Speaker, ſay, Yea, &c.* Which done, and he being by general Acclamation choſen Speaker, he was by Sir *John Herbert* and Sir *Edward Stafford* (leading him as the form is) placed in the Chair, the ancient Seat of Speakers: where being ſet, after ſome

some silence he stood up and made a gratulatory Speech of Form and Thanks.

The first Business in the House is ordinarily to read a Bill that was not passed in the last Parliament preceding, or some new Bill; as in that of 10 *Jacobi*, a new Bill, Entituled, *Touching Common Recoveries against Infants*, was read.

But on that day before that was done, there was a Motion made for Priviledge of Sir *Thomas Shirley*, who was chosen a Member to serve in that Parliament, but detained by an Arrest; upon which a *Habeas corpus* was awarded, and the Serjeant that arrested him and his Yeoman sent for, and a Committee for Elections and Priviledges chosen.

CHAP. II.

Decorum to be observed in the House.

WHen the Speaker is set in his Chair, every Member is to sit in his place with his Head covered.

No Member in coming into the House, or in removing from his place, is to pass between the Speaker and any Member then speaking; nor may cross or go overthwart the House; or pass from one side to the other while the House is sitting.

No Member is to come into the House with his Head covered, nor to remove from one place to another with his Hat on, nor is to put on his Hat in coming in or removing, until he be sate down in his place.

While the House is sitting, no man ought to speak or whisper to another, to the end the House may not be interrupted when any are speaking; but every one is to attend unto what is spoken. In which Case, Penalties have been imposed; as 4. *Decem.* 1640. and at other times.

When any Member intends to speak, he is to stand up in his place uncovered, and

nd addreſs himſelf to the Speaker, who ſually calls ſuch perſon by his name, that he Houſe may take notice who it is that ſpeaks.

If more then one ſtand up at once, the Speaker is to determine who was firſt up, nd he is to ſpeak, and the other ſit down, nleſs he who was firſt up ſit down again, nd give way to the other, or that ſome other Member ſtand up and acquaint the Houſe, that another was up before him, whom the Speaker calls, and the Houſe djudge it ſo.

While one is ſpeaking none elſe is to ſtand up or interrupt him until he have done ſpeaking and be ſate down, and then any other may riſe up and ſpeak, obſerving the Rules.

21. *Junii*, 1604. It was agreed for an Order, *That when Mr. Speaker deſires to ſpeak, he ought to be heard without Interruption, if the Houſe be ſilent and not in diſpute.*

12 *Jacobi*, It was vouched by Sir *Dudley Diggs*, (a perſon of much experience in Parliaments) *That when the Speaker ſtands up, the Member ſtanding up ought to ſit down.*

27. *April*, 1604. Agreed for a Rule,

That if any Question be upon a Bill, the Speaker is to explain, but not to sway the House with Argument or Dispute.

June 4. 1604. Agreed for an Order, *That whosoever hisseth or disturbeth any man in his Speech, shall answer it at the Bar.*

7. *Maii*, 1607. Ordered upon the Question, *That in going forth, no Man should stir until Mr. Speaker do arise and go before, and then all the rest to follow after him.*

CHAP.

CHAP. III.

Standing Committees.

IN Parliament there have usually been Five standing Committees appointed in the beginning of the Parliament, and remaining during all the Session; other Committees were made occasionally, & dissolved after the Business committed unto them was reported.

The standing Committees are for
- *Priviledges & Elections.*
- *Religion.*
- *Grievances.*
- *Courts of Justice.*
- *Trade.*

The Committees for Religion, Grievances and Courts of Justice, are alwayes *Grand Committees* of the House, which are to sit in the Afternoons upon such Dayes as the House doth appoint to them respectively.

The Committee for Trade hath sometimes been a select Committee particularly named, and all such Members as should come to it, to have Voices, as in *November*, 1640. Sometimes a Grand Committee of the whole House, as 21. *Iacobi.*

CHAP. IV.

Power and proceedings of the Committee for Priviledges.

BUt the Committee for Priviledges and Elections hath alway had the precedence of all other Committees, being commonly the first Committee appointed, and ordinarily the first day after, or the same day the Speaker did take his place.

This Committee is constituted of particular Members named by the House.

21. *Jacobi*, Upon naming a Committee for Priviledges and Elections, a Motion was made, That all that come should have Voices: but Sir *Thomas Crew* then Speaker (and well versed in Rules of Parliament) minded the House, That by the Orders of the House, that was not to be done; and by divers other Members it was insisted on, to be contrary to all former Precedents; yet upon the Debate a Question was put, Whether all that should come should have Voices at that Committee; and it passed in the Negative. And another Question being put, Whether

ther the Persons nominated only should be of that Committee; it was resolved in the Affirmative.

It was then also agreed, That *Council should be admitted at that Committee.*

The Power anciently given to this Committee, appears by the Entry in the Journal Book 26. Feb. 1600. in 39. Eliz. *That this Committee should, during all that present sitting of Parliament, examine and make report of all such Cases touching the Elections and Returns of any the Knights, Citizens, Burgesses and Barons of the House.* And also, *of all such Cases for Priviledge, as in any wise may occur or fall out during all the same Session of Parliament; to the end, the House upon Report of the same Examinations, might proceed to such further Course in every the same Cases as should be thought fit.*

And notice was given, That all the Members of the House might repair thither as there should be cause.

This latter Power touching Priviledge seems to have been inserted to prevent the Houses being troubled with Informations, untill they were examined and ripe for a Determination.

But in other Parliaments, both before and

and ſince, that Power doth not appear to have been given them ſo abſolutely; but matters of Priviledge were, upon Information to the Houſe, there heard, and not in a Committee, unleſs in ſome ſpecial Caſes, wherein there was cauſe of Examination, or of ſome preparation of a Charge; as in the Caſe of *Smaley*, 23 *Eliz.* and many other Caſes.

The Power of this Committee uſually was, as it is entred 6. *November*, 1640. *To examine and conſider all Queſtions which ſhall grow and ariſe in that Parliament about Elections, Returns and other Priviledges.* Or, as in the Parliament 1° *Iacobi*, thus: *This Committee are to examine all matters queſtionable touching Priviledges and Returns, and to acquaint the Houſe with their proceedings from time to time, ſo, as Order may be taken according to the occaſion, and agreeable with ancient Cuſtom and Precedent.*

And to the end theſe Queſtions might be ſpeedily determined: and the Houſe might know their Members, Days are uſually aſſigned, beyond which there ſhall be no queſtioning a former Election.

So in the Parliament of 21. *Iacobi*, the ſecond day of ſitting, It was Ordered, *That all*

all Petitions about Elections and Returns ſhould be preferred to the Committee of Priviledges within a Fortnight from that Day, or elſe to be ſilenced for that Seſſion.

16. *April.* 1640. Ordered, *that thoſe who would queſtion Elections, ſhould do it within Ten days by Petition.*

6. *Novemb.* 1640. Ordered, *That all ſuch as will queſtion Elections now returned, ſhould do it in Fourteen dayes, and ſo within Fourteen dayes after any new Return.*

Some queſtions have been, where there have been double Indentures returned for ſeveral perſons for the ſame place, whether all or any, or which of them ſhould ſit.

The general rule and practice hath been in ſuch caſe, That neither one nor other ſhould ſit in the Houſe, until it were either decided or Ordered by the Houſe: Therefore in *April* 1640. the Lord High Steward, who had power by himſelf or his Deputies, to miniſter the Oathes of Supremacy and Allegiance to all Members returned, before they ſate in the Houſe, gave Order, That where there were more returned for any one place then ought to be, there ſhould be none of them ſworn

till

till it were decided by the Houſe who were duly Elected. But that which may ſatisfie herein, is the Order of the Houſe in that Parliament, that if any ſit in the Houſe, that are returned by more Indentures then uſual, they ſhould withdraw till the Committee for Priviledges had further Ordered.

In the Parliament begun *April*, 1640. and *November*, 1640. It was moved, That where ſome are returned by the Sheriff or ſuch other Officer, as in Law hath power to Return, and others by private hands; there thoſe returned by the Sheriff or ſuch Officer, ſhould ſit till the Election be quaſhed by the Houſe.

But nothing was Ordered upon it.

24. *Febr.* 1623. Sir *Francis Popham* being returned a Burgeſs for *Chippenham* by one Indenture, and another perſon returned for the ſame place by another Indenture; it was moved he might be admitted into the Houſe till the matter were determined againſt him, and a precedent quoted in Sir *Thomas Wentworths* Caſe the laſt precedent Parliament. But it was then inſiſted on by the Chancellor of the Dutchy and others, That this being a Caſe of a double Return, he was not to be admitted,

mitted, and so it was referred to the Committee for Priviledges. His Case being reported 9. *April*, he was judged to be duly Elected.

21. *Jacobi*, Two Indentures were returned for *Southwark*, the one returned *Yarrow* and *Mingy*, the other *Yarrow* and *Bromfield*; upon a Report from the Committee for Elections, it was resolved, That the Election and Return for *Yarrow* should stand good, and that he should sit in the House.

22. *Martii* 21. *Jacobi*, The House was acquainted that Sir *John Jackson* and Sir *Tho. Beaumont* were both returned for one Burgesses place for *Pomfret*; and therefore it was moved, That both might be suspended till it were determined: Mr. *Glanvill* made answer to that Motion, That he that was returned might sit in the House until it were determined; which being contradicted by others, and much Dispute on both sides, it was lastly urged by Sir *Robert Phelips*, That there was not any Precedent for it, and therefore moved the Committee might take the Election into consideration to morrow, and that in the mean time the parties might forbear to come into the House: which was Ordered accordingly.

4. *No-*

4. *Novemb.* 1640. Upon a Report from the Committee for Priviledges, That several Indentures were returned for Burgesses for the Burrough of *Bossinny* in the County of *Cornwal*, the one by the Major of the Town, the other promiscuously: The Committee were of opinion upon view of the bare Indenture, That Sir *Ch. Harbord*, who was returned by the Major, was well returned; but the House declared he should not sit till the Election were decided.

In the same Parliament, two Returns were made for *Marlo Magna*, in both Indentures *John Burlace* Esq; was returned; therefore, upon Report from the Committee, he was admitted to sit, but the other to forbear till the Question be determined.

17. *April.* 19. *Jacobi*, It was Ordered, *That no Petition should be received by a Committee, but openly at the Committee, and read at the Committee before the party go that preferred it, and the parties name that preferred it be subscribed.*

In the Parliament in 21. *Jacobi*, upon a Report made from the Committee for Elections and Priviledges, praying the direction of the House, whether Affidavits might

might be made use of at that Committee.

These Reasons being insisted upon, that Affidavits should not be admitted.

1. Because it makes the Parliament lame without the Chancery.

2. It entituleth the Chancery to judge of Returns.

3. Affidavits are oftentimes cautelously made by Council or Parties.

4. Witnesses produced *Viva voce*, by Words, Actions, Gestures, or the like, may discover much, whereby the Committee may judge.

It was likewise informed by Sir *Edward Coke* lake Lord chief Justice, That in the Parliament when he was Speaker, which was 35. *Eliz.* Affidavits were not used, nor since, until of late.

5. Though the Committee examine not an Oath, yet they may punish any that shall testifie untruly: of which an instance was given in the last preceding Parliament in the Case of one *Damport*; It was Resolved, *That all Affidavits to be taken in any Court concerning Elections, Returns, or any thing depending thereupon, should be rejected, and not hereafter to be used.*

CHAP.

CHAP. V.

Members choſen in ſeveral Places.

IT falling out ordinarily, that one perſon is choſen and returned to ſerve for ſeveral places, it is in his Election to make his choice in the Houſe in his own perſon for what place he will ſerve, and waive the other Election, ſo as a Writ may go out for a new Election for ſuch place waived, that the number may be full; but if he ſhall not do it by the time which the Houſe ſhall appoint, then it hath been ſaid, the Houſe will appoint for what place ſuch Perſon ſhall continue a Member, and that Writs may go out for the other places: but *Quære* whether it hath been done.

Oftentimes on the Firſt day of the meeting of the Houſe, as ſoon as the Speaker hath been approved, and ſometimes before, ſuch Perſons as have been ſo doubly returned have made their choice.

In the firſt Seſſion of Parliament 1. *Jacobi*, the ſame day Sir *Edward Phelips* was choſen Speaker (before he was preſented to the King) he ſigned a Warrant as Speaker,

peaker, by command of the Houſe, for lection of another Perſon in the place of ir *Francis Bacon* being choſen in two laces. And in the ſame Seſſion, the ſame ay after the Speaker had taken his place, ivers Members who were ſeverally re-rned, as elected in ſeveral places, made eir choice for what places they would and, and new Writs ordered.

The Parliament beginning the 13. *April*, 640. and the Speaker being preſented the 5th, upon the 16th day divers made their oice upon ſuch double Returns.

The Parliament beginning 3. *Novemb.* 640. Upon a long Debate for granting me for Elections on double Returns of is nature, It was reſolved, *That all ſuch s are doubly returned ſhall make their hoice for which place they will ſerve on Monday next.*

9. *Martii*, 21. *Jacobi*, Reſolved, *That ll Members of this Houſe doubly returned, all make their Elections for which they ill ſerve, and that thoſe in the Houſe ſhall o it preſently, or elſe new Writs to iſſue r both.*

CHAP.

CHAP. VI.

New Writs for vacant Places.

A General Order hath uſually bee made in the beginning of the Se ſion, to authorize the Speaker to giv Warrant for new Writs, in caſe of Deat of any Member, or of double Return where the party makes his choice openl in the Houſe during that Seſſion; ſo was Ordered in the beginning of the Pa liaments 18. and 21. *Jacobi.*

Where ſuch general Order is n made, Writs have iſſued by Warrant the Speaker, by virtue of ſpecial Orde upon Motion in the Houſe.

This Warrant is to be directed to th Clerk of the Crown in Chancery, b Order of Parliament 13. *Novemb.* 160

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CHAP. VII.

Rules and Methods of Debates in the House.

WHen a Motion hath been made, the same may not be put to the Question until it be debated, or at least have been seconded and prosecuted by one or more persons standing up in their places as aforesaid, and then the same may be put to the Question, if the Question be called for by the House, or their general Sense be known, which the Speaker is to demand, unless any Member stand up to speak.

When a Motion hath been made, that Matter must receive a determination by a Question, or be laid aside by the general Sense of the House before another be entertained. An instance is in the Journal 28. *June*, 1604. A Motion being made, another interposed a Speech tending to another Business: but it was answered, *That there was no Precedent for that Speech to be used before the other Motion, which was made before, had received an Answer and an end.* And the House did accordingly

ingly determine the first Motion in t
first place.

4. *Decemb.* 1640. Ordered, *That t*
the Busines's in agitation be ended, no new M
tion of any new Matter shall be made with
leave of the House.

If the Matter moved do receive a D
bate *pro & contra*, in that Debate no
may speak more then once to the Matte
And after some time spent in the Deba
the Speaker collecting the Sense of t
House upon the Debate, is to reduce t
same into a Question, which he is to pr
pound; to the end, the House in the
Debate afterwards may be kept to t
Matter of that Question, if the same
approved by the House to contain the su
stance of the former Debate.

After such Question is propounded, a
Member may offer his Reasons again
that Queston in whole or in part, whi
may be laid aside by a general consent
the House without a Question put.

But without such general consent,
part of the Question propounded may
laid aside or omitted; and although t
general Debates run against it, yet if a
Member, before the Question be put *wit*
out that part, stand up and desire th
such

ſuch Words or Clauſe may ſtand in the Queſtion, before the main Queſtion is put; a Queſtion is to be put, Whether thoſe Words or ſuch Clauſe ſhall ſtand in the Queſtion.

The like Method is obſerved, where any other Alteration is debated upon, to be made in a Queſtion propounded; but upon putting a Queſtion for ſuch Addition, Alteration or Omiſſion, any perſon who hath formerly ſpoken to the Matter of the Queſtion, may ſpeak again to ſhew his Reaſons for, or againſt ſuch Alteration, Addition or Omiſſion, before ſuch Queſtion be put.

When the *Speaker* (the Houſe calling for a Queſtion) is putting the ſame, any Member that hath not before ſpoken to the matter, may ſtand up before the Negative be put.

13. *Iunii*, 1604. A Bill touching a Subſidy of Tonnage and Poundage having been formerly upon a third Reading recommitted, was returned; And a *Proviſo* being tendred for *Cheſter*, which was twice read, the Queſtion was put for Commitment in the Affirmative: but before the Negative was put, one ſtood up and ſpake to it, which was admitted for Orderly, becauſe

because it is no full Question without the Negative part be put as well as the Affirmative.

Every Question is to be put first in the Affirmative: *viz. As many as are of opinion that* (repeating the words of the Question) *say, Yea.* And then the Negative thus: *As many as are of another opinion say No.* To which Question every Member ought to give his Vote one way or other, and the Speaker is to declare his opinion, whether the *Yea's* or the *No's* have it, which is to stand as the Judgment of the House. But if any Member before any new Motion made, shall stand up and Declare, That he doth believe the *Yea's*, or *No's* (as the Case shall be) have it, contrary to the Speakers opinion, then the Speaker is to give direction for the House to divide, declaring whether the *Yea's* or the *No's* are to go forth.

Upon the dividing of the House, those are to go forth who are for varying from or against the constant Orders of the House, (as that a Question shall not be put, or not be now put, it being the course of the House, that after a Debate the same should be determined by a Question or the like) or against any Positive Order made

made by the House, or for the passing any new thing, as reading a Petition or Bill, and Committing, Ingrossing, or passing such Bill, or the like.

10. *Decembr.* 1640. An Order being made the 9. day, That the House should be resolved into a Grand Committee the next day, for Debating the way for raising Money; Upon the 10. Day a Question was upon Debate put, whether the House should be resolved into a Grand Committee; upon which the House was divided, and a Doubt moved which were to go forth. It was declared for a constant Rule, *Those that give their Votes for Preservation of the Orders of the House, should stay in; and those who give their Votes otherwise, to the introducing any new Matter, or for any Alteration should go forth.*

24. *Martii*, 21. *Jacobi*. Upon a Report from the Committee for Priviledges, a Question was put, That Sir *Tho. Holland* and Sir *John Corbet* were well Elected Knights for *Norfolk*; The House was divided, and a Contest which should go forth; it was over-ruled by the House the *No's* should go forth.

Which is also the course upon any

Question to agree with a Report in favour of the Opinion of a Committee.

Upon dividing the House, the Speaker is to nominate two of those that are in the Affirmative, and two of the Negative to count the House; which four (each of them having a Staff in his hand) are to count the number of the Persons who remain sitting in the House, and then to stand within the Door, two on the one side and two on the other, and to count the Number of them who went forth and they come in.

While the House is thus divided or dividing, no Member may speak, nor (unless it be to go forth upon the Division) remove out of his place.

When the House is thus told, those two of the Tellers who are of the number of those who have the major Votes, standing on the right hand, and the two other on the left at the Bar, (the rest being all set in their places) are to come from thence up to the Table together, (making the usual Obeysance to the House three times; once at the Bar, again in the middle of the House, and again when they are come to the Table) And that person who stands on the right hand, is to declare the

he Speaker the number of the *Yea's* (who ate or went out as the Case is) and of the *No's*: and then with like reverence to epart into their places; after which, Mr. peaker is to report the same to the louse.

If the Affirmatives have the major otes by the judgment of the Speaker, (in case of division) upon the division, e Clerk is to enter the Vote, *Resolved*. the Negatives, then he is to enter it us; The Question being put (setting own the Words of the Question) It passed the Negative.

Upon the division, if the Members ap- ar to be equal, then the Speaker is to clare his Vote, whether he be a *Yea* or *No*, which in this Case is the casting oice; but in other Cases, the Speaker ves no Vote.

1. *Maii*, 1606. A Question was mo- d, whether a Man saying *Yea*, might terwards sit and change his Opinion; d a Precedent was remembred by Mr. eaker (Sir *Edward Phelips*) of Mr. *rris* Attorney of the Wards, in 39. *Eliz.* that in like Case changed his pinion.

If upon a Debate it be much contro-

verted, and much be said against the Que
stion, any Member may move, That th
Question may be first made, whether th
Question shall be put, or whether it sha
be now put; which usually is admitted
the instance of any Member, especially
it be seconded and insisted on; and if th
Question being put, it pass in the Affirm
tive, then the main Question is to be p
immediately, and no man may speak an
thing further to it, either to add or alte
But before the Question, whether t
Question shall be put, any person wh
hath not formerly spoken to the ma
Question, hath liberty to speak for it,
against it; because else he shall be p
cluded from speaking at all to it.

If in a Debate, there arise more Qu
stions then one, and it be controver
which Question should be first put;
Question first moved and seconded is
gularly to be first put, unless it be
aside by general consent. If the
Question be insisted upon to be put,
the major part seem against it, the Que
on is to be, Whether that Question sh
be now put: if that pass in the Negati
then the other Question may be put
desired: nevertheless, any person

ſpeak to it again before it be put. If in the Affirmative, then it is to be put without any addition or alteration, as before: And after that Queſtion is put, if any Member move to have the other Queſtion put, every one hath leave to ſpeak to it again as if it were a new Queſtion.

If a Matter be received into Debate, and a Queſtion grow, whether the Houſe ſhall proceed in that Debate at this time, and it fall out that the Houſe be divided; in ſuch Caſe the *No's* are to go forth, it being contrary to the courſe of the Houſe, that any buſineſs ſhould be laid aſide till it be determined by a Queſtion; If the Queſtion be for an adjournment of a Debate, the *Yea's* are to go forth upon the ſame reaſon.

After a Queſtion is propounded, no man may ſpeak more then once to the Matter; but having ſpoken to the Matter, when the Queſtion comes to be put, he may ſpeak to the Manner or Words of the Queſtion, keeping himſelf to that onely, and not ravelling into the Merits of it.

If a Queſtion upon a Debate contain more parts then one, and Members ſeem to be for one part, and not for the other, it may be moved that the ſame may be

divided into two or more Questions: a
2. *Decemb.* 1640. The Debate having been
whether the Election of two Knights fo
the County of *Warwick* were void; a Que
stion was put, whether it should be tw
Questions: and that being Resolved in th
Affirmative, the Questions were put seve
rally, upon the Election of the one first, an
then of the other.

No member in his Discourse in th
House may mention the name of an
other Member then present, but to de
scribe him by his Title or Addition; as
that Noble *Lord*, Worthy *Knight*; or by
his Office, as, *Judge*, *Serjeant*, *Gentlema*
of the long or short Robe; or by hi
Place, as the Gentleman near the Chair
near the Bar, on the other side; or thus
the Gentleman that spake last; or last save
one, or the like.

During any Debate, any Member
though he have spoken to the Matter
may rise up and speak to the Orders o
the House, if they be transgressed, in case
the Speaker do not; but if the Speaker
stand up, he is first to be heard, and when
he stands up, the other must sit down till
the Speaker sit down. But if any person
rise up to speak to the Orders of the
House

House in the midst of a Debate, he must keep within that Line, and not fall into the Matter it self; if he do, he may be taken down by the Speaker, or any other Member, calling to the Orders of the House.

Whiles a Member is speaking to a Debate or Question, he is to be heard out and not taken down, unless by Mr. Speaker, in such Cases as you find therein expressed, or that he speak of such Matter as the House doth not think fit to admit.

24. *Januar.* 23. *Eliz.* Upon a Debate in the House, Mr. *Carleton*, endeavouring to speak contrary to the Sense of the House, was interrupted; and afterwards offering to speak again, saying with some repetition, That it was for the liberty of the House, the Speaker and the House did stay him.

April 1604. Agreed for a Rule of the House, *He that digresseth from the Matter to fall upon the Person, ought to be suppressed by the Speaker.*

17. *April* 1604. Agreed for a general Rule, *If any superfluous Motion or tedious Speech be offered in the House, the party is to be directed and ordered by the Speaker.*

2. *Maii* 1610. A Member speaking,

and his Speech seeming impertinent, and there being much Hissing and Spitting; it was conceived for a Rule, *That Mr. Speaker may stay impertinent Speeches.*

18 *Maii* 1604. It was Resolved, That eight ingrossed Bills should be read the next day half an hour after eight: The next day about that time, a Member entring into a long discourse *De mera fide & sola fide*, &c. was interrupted, and the Question offered, whether he should go on in respect of the Order. But it was agreed for a Rule, *If any may speak not to the Matter in Question, the Speaker is to moderate.*

14. *April.* 1604. In a Matter formerly proposed, touching the abuse of the Purveyors, it was argued, Whether it were fittest to proceed by way of Petition to the King, or by Bill: which was spoken to by Mr. *Marten*, Mr. *Hoskins* and others; and lastly by Sir *Henry Jenkin*, who was observed to mistake the Question; and therefore (to prevent the idle expence of time) was interrupted by Mr. Speaker; and thereupon a Rule conceived, *That if any Man speak impertinently or besides the Question in hand, it stands with the Orders of the House for Mr. Speaker to*

to interrupt him, and to know the pleasure of the House, whether they will further hear them.

A Matter upon Debate having been once finally determined by a Question, ought not to be again brought into dispute.

27. *Martii*, 1604. Sir *Edward Coke* Attorney-General, and Doctor *Hone* bring a Message from the Lords, desiring a Conference about the Case of Sir *Francis Goodwyn*: Upon this Message it was argued, That now the Judgment having passed the House, it could not, nor ought to be reversed by them; and upon the Question it was Resolved, There should be no Conference.

In sapientum decretis non est litura.

2. *April.* 1604. A Vote having passed some dayes past, That no Conference should be admitted with the Lords, the same Question was again moved, but was carried in the Negative; And it was then urged for a Rule, That a Question being once made and carried in the Affirmative or Negative cannot be questioned again, but must stand as the Judgement of the House.

In the Answer of the Commons House

of Parliament to King *James* his Objections in Sir *Francis Goodwyn's* Case, 3 *April* 1604. The Objection being, that they refuse Conference with the Lords.

The Answer is in these words, Concerning our refusing Conference with the Lords, there was none desired untill after our Sentence passed; and then we thought that in a matter private to our own House *which by Rules of Order might not be by us revoked*, we might without any imputation refuse to confer.

CHAP. VIII.

Grand Committees, and their manner of Proceedings.

A Grand Committee consists of as many Members, at least, as constitute the House, (less may not sit or act as a Committee) who have general Powers to consider of any Matters touching the subject Matter referred, and to present their Opinions therein to the House, the better to prepare Matters of that nature, or Bills therein, for the House; which may better be prepared, by the liberty that every Member hath in a Grand Committee, as well as in other Committees, to speak more then once to the same Business, (if there be cause) which is not permitted in the House.

But Grand Committees have their Powers and Rules, in other Circumstances, given them in express words by the House; as, to send for Witnesses, to hear Council, or assign them on either part, to send for Records; which appears by several Motions made in the Parliament 21. *Jacobi*. Sir *Robert Phelips* (a person of

of much Experience in the Course and Orders of Parliament) moved the House from the Grand Committee for Courts of Justice, that they might have Power in the particulars aforesaid.

8. *Martii* and 13. *Martii* in the same Parliament, Upon report from the Committee for Trade, (which then was a Grand Committee) the House was moved for their Order to the Merchants Adventurers to bring in their Patents, and that the Inventor of the pretermitted Customs should attend the Committee.

15. *Maii* 22. *Jacobi*, Upon Complaint from the Grand Committee for Grievances, that they had sent several Warrants for divers Persons to bring in their Patents, which they had not done; the House Ordered *the Serjeant at Arms to be sent for them.*

When any great Business is in agitation that requires much Debate, or a Bill for a Publique Tax is to be committed, the House doth use to resolve it self into a Grand Committee of the whole House; which is done by a Question, and then the Speaker leaves his Chair: and thereupon the Committee (which must consist of as great a number as constitutes a House, as

s before declared) makes choice of a Chair-man, in which case, if more then one be generally called to the Chair, any Member may stand up, and by consent of the Committee, put a Question for one of those named to be the Chair-man.

19° *Jacobi*, A dispute being in the Committee, which of two Members named should go to the Chair, the Speaker was called to his Chair, and put the Question That Sir *Edward Coke* (who was one of the Persons named) should take the Chair, and then the Speaker left his Chair.

The Chair-man of the Grand Committee is to sit in the Clerks place at the Table, and to write the Votes of the Committee.

If upon putting a question, the Chair-man (who is to judge by the Voices) have delivered his Opinion that the *Yea's* have it, and any Member stand up and say, He believes the *No's* have it, (or contrariwise) the Committee is to divide within the House; the Chair-man directing the *Yea's* to go to that side of the House that is on the one hand, and the *No's* to the other side, and then he is to appoint one of each to count the numbers and report them;

them; which is to be done in the same order as in the House, saving that the Obeysance is only twice in the Committee, thrice in the House: if the numbers be equal, the Chair-man hath a casting Voice, otherwise he hath no Voice in the Committee.

When the Committee hath gone through the Matter referred to them, the Chair-man having read all the Votes, is to put the Question, that the same be reported to the House: If that be resolved, he is to leave the Chair, and the Speaker being again called to the Chair, (or at the next sitting of the House, if it be then adjourned) the Chair-man is to report what hath been resolved at the Committee, standing in his usual place, from whence (if it be not in the seat next the Floor) he is to go down to the Bar, and so to bring up his Report to the Table.

If the Committee cannot perfect the Business at that sitting, they may not adjourn as other Committees; but a Question is to be made for reporting to the House, and that leave be asked, that the Committee may sit at another time on that Business.

But if, as sometimes it falls out, the Matter

latter hath received a full Debate in the Committee, and it is judged fit to be resolved in the House, the Speaker is again called to the Chair for that purpose.

In other things then as aforesaid, the Rules of Proceedings are to be the same as are in the House.

4°. *Junii*, 1607. agreed for a Rule.

1. *Every Question upon the Voices of a Committee bindeth, and cannot be altered by themselves.*

2. *Every thing directed and agreed to be reported, ought to be accordingly reported; but not every thing spoken or debated at a Committee.*

28th *Julii*, 1641. Declared by the House, *That no Committee ought by Vote to determine the Right or Property of the Subject, without first acquainting the House therewith.*

6° *Aug.* 1641. Resolved, *that no Vote past at a Committee, and not reported nor confirmed by the House, shall be any Rule or Direction for any Court of Justice in* Westminster-Hall *to ground any Proceedings thereon.*

CHAP.

CHAP. IX.

Publique Bills, and manner of Proceeding on them.

ANy Member of the House may offe a Bill for Publique Good, except i be for imposing a Tax; which is not to b done but by Order of the House firs had.

But if any Member desire, That an Ac made and in force, may be repealed or al tered, he is first to move the House in it and have their Resolution, before any Bill to that purpose may be offered; and upon the Reasons shewed, for repealing o altering such Law, the House shall think fit, they do usually appoint one or more o the Members to bring in a Bill for tha purpose. In the beginning of every Parliament, some Persons have been appointed to consider of such Laws as had continuance to the present Session, whether they were fit to be continued or determined; as also of former Statutes repealed or discontinued, whether fit to be revived, and what are fit to be repealed.

19. *April.* 1604. Mr. Serjeant *Sing* moved

moved for some course to be entred into for continuance of Statutes, and offered something in writing to that end; but the House thought fit a Bill for continuance should not be brought in by any but the Committee for that purpose; which holds *a fortiori* in repealing Statutes.

A private Bill that concerns a particular Person, is not to be offered to the House, till the leave of the House be desired, and the substance of such Bill made known, either by Motion or Petition: nevertheless, the Speaker hath had liberty to call for a private Bill to be read every morning; and usually the morning is spent in the first reading of Bills, untill the House grow full.

If any Publique Bill be tendred, the person who tenders the Bill must first open the matter of the Bill to the House, and offer the Reasons for the admitting thereof; and thereupon, the House will either admit or deny it.

If a Bill be admitted to be read, the same is to be presented fairly written, without any razure or interlineation, together with a Breviate of the heads of the Bill, and unless it be so tendred, the Speaker may refuse it.

When

When a Bill hath been read the fi
time, the Clerk is to deliver the same
the Speaker, who ſtanding up uncover
(whereas otherwiſe he ſits with his h
on) and holding the Bill in his hand, is
open the ſame, firſt reading the Ti
thereof, and after he hath done, declar
this to be the firſt reading of ſuch Bil
and untill the Bill be opened, no Memb
may ſpeak to it.

After the firſt reading of a Bill, and th
ſame opened, no man regularly may ſpea
to it, untill it hath been the ſecond tim
read, unleſs he ſpeak to caſt it out; w
which caſe any other may ſpeak for th
retaining thereof: Nevertheleſs, it is no
without Precedent, That upon the fir
reading of a Bill, Debates have been up
on it *pro* and *contra*, eſpecially when th
Houſe hath generally diſliked the Bill
and in caſe, after Debate, the Houſe do
call to the Queſtion, and the Senſe of th
Houſe therein be doubtfull, the firſt Que
ſtion is to be put (not, whether the Bil
ſhall be read the ſecond time, for ſo i
ought to be in ordinary courſe without
Queſtion, if nothing be ſaid againſt it
but) whether the Bill ſhall be rejected. I
it paſs in the Affirmative, the Clerk enter
the

ne same in his Journal, and also endorses upon the back of the Bill.

By the Journal of the Parliament held 3° *Eliz. November* 17°. Upon Debate of the ill against unlawful Hunting, fifth Session f the first Parliament of King *James*, this ppears to have been the course.

In the Parliament 1604. the Bill touch- ng Apparel upon the first reading was dis- ked, & so spoken to *pro* and *contra*; which not usually admitted, without some ex- aordinary conceit of mischief, inconve- ience or imperfection, and the Question as put presently for the Rejection: Upon he division of the House, those for the Bill te, those against it went out; which was lso done 7° *Aug.* 1641. upon the Question or rejecting the Bill for Light-houses in he North.

If the Bill be not so generally opposed, ut onely by some, then the Question is to e, whether the Bill shall be read a second me; and if that Question for reading the ill a second time pass in the Affirmative, is to be read at such convenient time as he House shall be minded of it by the peaker, or as the House shall appoint: If pass in the Negative, then a Question is o be put for Rejection.

Bills

Bills, especially Publique Bills, have n
usually been read more then once in o
day, but put off to the next day, or t
two or three days; (except it requi
haste) to the end the Members of t
House may have time to consider of i
and (if they shall desire it) may pen
the Bill, to enable them to speak to it
the next reading. But in former tim
Bills have been twice, yea thrice read
one day, and passed; as may be seen in th
Proceedings upon the Bill against Cou
terfeit Seals 16° *Febr.* 23° *Eliz.* and in th
Bill against Disobedience to the Que
4° *Martii*, of the same Year, The B
for Recognition of the Succession of th
Crown in the first Session of the Parli
ment 1° *Jacobi*: And therefore any Mem
ber may move it may be read the sam
day the second time; and any other Mem
ber hath liberty to offer his Reasons a
gainst such second reading at that time
but it is not done, but upon Motion o
Order of the House.

Sometimes the House upon Debat
doth pass some Votes to be the Heads of a
Bill; or refer it to a Committee of the
whole House to prepare such Heads. Ne
vertheless, when it is digested into a Bill,

and

nd that comes to be read or paſſed, it is awful to debate or argue againſt all or any part thereof, to alter or reject it; becauſe Votes, in order to a Bill, are no further binding, but that the Bill is to be preſented containing thoſe Votes; and becauſe the Bill gives occaſion of a more large Debate, and being to paſs into a Law, every Member hath liberty to offer his Reaſons againſt it, as well as give his Vote, as often as it comes to a Queſtion.

When a Bill hath been read the ſecond time, and opened as before, any Member may move to have the ſame amended, but muſt ſpeak but once to it; and therefore muſt take all his Exceptions againſt the Bill, and every part of it, at one time: For in the Debate of a Bill, no man may ſpeak but once the ſame day, except the Bill be read more then once that day, and then he may ſpeak as often as it is read.

4° *Junii*, 1604. Agreed for a Rule, *If two ſtand up to ſpeak to a Bill, he that would ſpeak againſt the Bill, if it be known by demand or otherwiſe, is to be firſt heard.*

If the Exceptions be ſuch as may not be amended at the Table, then the Queſtion is for the committing of the Bill:

but

but no Bill is to be committed witho
some exceptions taken to it; as it was i
fisted on upon that Question for commi
ting the Bill *for Probate of Suggestions*
case of Prohibitions, which were the
made, and thereupon the Bill was com
mitted.

No *Proviso* or Clauses are to be ten
dred to a Bill upon a second reading; be
cause if it be committed, it is proper
offer them to the Committee witho
troubling the House: as 16° *Junii*, 1604.
was moved that sundry *Proviso's* then ten
dred, be offered to the Committee.

If that Question for Commitment pa
in the Negative, then the Question is
be put for ingrossing the Bill; so it w
upon the second reading of the *Bill fo*
Limitations of Actions, 21° *Jacobi*. And an
other *Bill for explanation of a Clause in*
Act 3° *Jacobi*, Entituled, *An Act for th*
better discovering and suppressing Romis
Recusants, the same day. But if the Que
stion for ingrossing the Bill pass in the Ne
gative, then the Question is to be put fo
rejecting the Bill.

If the Question for committing the Bill
pass in the Affirmative, then a Committee
is to be named; of which, all those that

took

ook Exceptions againſt any particulars n the Bill (but not thoſe who ſpake a-ainſt the whole Bill) are to be, and any Members that pleaſe, may name one a-iece, but not more to be of that Com-nittee.

10 *Novembr.* 1640. Declared for a Rule, *That at the naming of a Committee, f any man riſe to ſpeak, the Clerk ought ot to write.*

11° *Novembr.* 1601. Reſolved and Or-ered upon the Queſtion, *That ſuch Member as declares himſelf againſt the body or ſubſtance of any Bill upon any the eadings thereof, ſhall not hereafter be ad-itted to be of a Committee in any ſuch Bill, according to former Order uſed in Parliament.*

7° *Martii.* 1606. Mr. *Hadley* being aſ-igned of a Committee to confer with the Lords, deſired to be ſpared, he being in o-inion againſt the Matter it ſelf; and it was conceived for a Rule, *That no man was to be employed in any Matter, that had declared himſelf againſt it*: And the Que-ſtion being put, whether Mr. *Hadley* were o be employed; It was reſolved, he was not to be employed.

Committees upon Bills have not uſual-

ly

ly been leſs then Eight, ſometimes Twe
ty, ſeldom more in former times; whi
engaged them to attend it and ſpeed
12° *Aprilis* 1604. Upon a Motion ma
touching the ſlow Proceedings and d
patch of ſuch Bills and Buſineſs as were d
pending in the Houſe, which grew,
was ſaid, by the non-attendance of Co
mittees: It was Ordered, *That if Eight
any Committee do aſſemble, they might proce
to a Reſolution in any Buſineſs of the Hou*
Formerly all were to attend.

When a competent number are name
the Speaker uſeth to put the Houſe
mind of appointing the time and place
their meeting; at which time the Co
mittee are to meet; eſpecially thoſe w
did make any exceptions to the Bi
Eight of the Perſons named muſt be p
ſent to make a Committee, (unleſs whe
a leſs number of them are appointed to
a Committee, which hath been done ſom
times in Private Caſes, but ſeldom or n
ver in Publique Bills) but five may a
journ.

In ſome Caſes the Houſe hath Order
a Committee to withdraw into the Co
mittee Chamber preſently, and bring
back ſitting the Houſe; as was done

he Bill for Probate of Suggestions in cases of Prohibitions aforesaid.

Some Bills of great concernment; and chiefly in Bills to impose a Tax, or raise Money from the people, are committed to a Committee of the whole House: to the end there may be opportunity for fuller Debates, for that at a Committee the Members have liberty to speak as often as they shall see cause, to one Question; and that such Bills being of general concernment, should be most solemnly proceeded in, and well weighed: and sometimes when a Bill of that nature hath been conceived fit to be made, the House hath thought fit to resolve themselves into a Committee, and either there, or in the House, to Vote some heads for direction of such as shall be imployed to prepare the Bill:

Any Member of the House may be present at any select Committee, but is not to have any Vote, unless he be named to be of the Committee.

The Committee are first to read the Bill, and then to consider the same by parts.

The Preamble, if any be, is usually considered after the other parts of the Bill,

becauſe, upon the conſideration of t
body of the Bill, ſuch alterations may
therein made, as may alſo occaſion t
alteration of the Preamble; which w
beſt be done laſt.

The Committee may not raze, inte
line, or blot the Bill it ſelf; but muſt in
Paper by it ſelf ſet down the Amen
ments in this manner: *viz.* In ſuch a *Fo*
and ſuch a Line; between ſuch a wo
and ſuch a word, or after ſuch a word
inſert theſe words, or omit theſe words
and in ſtead thereof (if there be cauſe) in
ſert theſe words.

When the Amendments are all pe
fected, every one being voted ſingly, a
of them are to be read at the Committe
and put to the Queſtion, whether th
ſame ſhall be reported to the Hou
When that Vote is to be put, any Me
ber of the Committee, may move to ad
to thoſe Amendments, or to amend an
other part of the Bill.

Otherwiſe, when a Vote is once paſſe
at a Committee, the ſame may not be a
tered, but by the Houſe (ſo the Entry
in the Journal 4° *Junii*; 1607. Eve
Queſtion upon the Voices of the Com
mittee bindeth, and cannot be altered b
them-

themſelves. And thus every thing agreed to be reported, ought to be reported.

If the Vote of the Committee paſs for reporting the Amendments to the Houſe, then one of the Members of the Committee (which is commonly the Chairman) who is beſt acquainted with the Bill, is to be appointed to make the Report; which being done, that Committee is diſſolved, and can act no more without new power.

3° *Martii*, 1606. It was Ordered, *That every Committee when they proceeded to Amendment of any Bill Committed to them; ſhould alſo amend the Breviate annexed, and make it agree with the Bill.*

Reports are uſually to be received daily, in the firſt place, after the Houſe is full, except there be Bills ingroſſed which are to take place, and Publique Bills before Private.

The Reporter muſt firſt acquaint the Houſe, That he is to make a Report from ſuch a Committee, to whom ſuch a Bill was committed, and ſtanding in his place, muſt read each of the Amendments with the Coherence in the Bill; and opening the Alterations and the Reaſons of the Committee for ſuch Amendments, until

he hath gone through all, and then mu
(if he ſit not in the ſeat next the floo
come from his place to the Bar, and
come up to the Table, and deliver bo
the Bill and Amendments to the Cler
by whom he is to ſtand, while the ſame a
twice read; which is to be done by hi
(without reading any words that are
be omitted, but only ſuch as are to be i
ſerted) before any man ſpeak to any
them; and then the Bill, with the Amen
ments, is to be delivered to the Speaker.

4° *Iunii*, 1607. The Bill touching t
Union between *England* and *Scotland* h
ving been committed, when the Amen
ments were reported, the whole Bill w
by Order of the Houſe firſt read, and th
the Amendments by themſelves; which
a ſingle Precedent uſed only in a Caſe
great weight.

After ſuch reading of the Amendmen
any Member may ſpeak againſt all, or a
of the Amendments, and deſire the C
herence to be read; but he is to make
his Objections at once to all the Amen
ments, without ſpeaking again: on
ſometimes in Matters of great concer
ment, it hath been deſired, that the A
mendments be conſidered one by one, a

ſo put to the Queſtion, and then may he ſpeak to each of them.

Exceptions may be taken as well to what is omitted out of the Bill by the Committee, as to what is amended.

6° Junii, 1604. Amendments being reported to a Bill for providing a godly and learned Miniſtery; a Queſtion was made, whether the words [*or being no Graduate*] ſtruck out by the Committee, ſhall ſtand in the Bill: and it was upon the Queſtion Ordered to ſtand.

Upon this or any other Report from a Committee, the firſt Queſtion ought to be for agreeing with the Report, unleſs the Houſe generally diſlike it.

All the Amendments reported by the Committee are to be proceeded in before any new Amendment or *Proviſo* be admitted, unleſs it be amending the Amendments reported.

If there be Exceptions againſt the Amendments reported, which cannot be conveniently amended at the Table, then the Bill is to be recommitted to the ſame Committees.

After the Houſe hath proceeded upon all the Amendments reported, there have been ſometimes offered other Amend-

mendments, Proviſo's, or additional Clau-
ſes written in Paper, after acquainting the
House with the ſubſtance thereof, which
(if the House do approve) are to be read
by the Clerk, and opened by the Speaker.
After the firſt reading and opening, any
perſon may ſpeak for rejecting it, or for a
ſecond reading; which if it come to the
Queſtion, the firſt Queſtion to be put, is
Whether it ſhall be read the ſecond time;
if that be carried in the Negative, then the
next Queſtion is for rejecting it.

If the Vote paſs for the ſecond reading
of ſuch Clauſe or *Proviſo*, then (after
reading and opening it as before) is a pro-
per time for Debate thereof, for alteration,
or laying it aſide, or for commiting the
ſame with the Bill.

But regularly, no ſuch thing ſhould be
offered after a commitment, but the ſame
ſhould be offered to the Committee
where it may be firſt conſidered and pre-
pared, and ſo the time of the House
ſaved.

If the Amendments be agreed, and no
ſuch Clauſe or *Proviſo* tendred, or being
tendered, be agreed, then the Queſtion is
to be, That this Bill with the Amend-
ments (and *Proviſo's* or Clauſes added,

any

ny be) be ingroſſed; at which time any may ſpeak for rejecting the Bill, as well as upon the firſt or ſecond reading. But if the Vote for ingroſſing paſs in the Affirmative, the ſame is to be ingroſſed by the Clerk, and hath uſed to be examined by the Reporter, and one or more of the former Committee, to take care the ſame be truly ingroſſed; eſpecially if the Amendments be many, and not fairly written.

The Title is to be indorſed on the back of the Bill, and not within.

All Bills regularly are to be ingroſſed and read a third time; which being ingroſſed, the Speaker is to put the Houſe in mind thereof, at convenient times, to have them read: And ingroſſed Bills are to be read before any other, unleſs it be of great concernment; in which caſe, the Houſe hath ſometimes Ordered, That ſuch Bill ſhould not be read till Ten of the clock, to the end the Houſe may be full.

The Speaker, the day before, doth uſually acquaint the Houſe, That ſuch Bills are ingroſſed, and that he intends the next day to offer them to be paſſed.

17 *Febr.* 18. *Jacobi*, Ordered, *That no Bill be put to paſs till Nine of the clock*,

and notice to be given the day before, Th Bills shall be passed the next day.

24° *April.* 22° *Jacobi*, Ordered, *Th all the Members of the House do attend t House half an hour after Seven of t clock, and Bills to be put to passage by Eigh and that on Monday next they should be offer to passing.*

Upon such third reading and openi thereof by the Speaker, as before (t House being acquainted this is the thi reading) any Member may then likewi speak against the whole Bill to throw o the same, or to any Clause thereof, to b omitted or amended; so as such Amend ment be in one or few Words, which ma be done at the Table.

A *Proviso* or Clause ingrossed in Parch ment, may after a third reading, and be fore the Question for passing it, be ten dered to be made part of the Bill; but h that tenders it must be careful, that th same be so penned, as that it may pass as is, or be capable of an Amendment at th Table, by adding or amending one or fe words: else it is in danger to be rejected because it is not regularly to be committed.

When such *Proviso* or Clause is so ten dered, the substance thereof being firs opened

pened to the House, if the House admit the same to be read, it is to have the same proceeding, as in the first, second, and third Reading of a Bill; and if after the second reading there be no Objection against it; or after Debate, when it comes to a Question, the Question is to be put, Whether the *Proviso* or Clause shall be part of the Bill: If the same pass in the Negative, then the Clerk is to enter a *Memorandum* thereof; if in the Affimative, then an Entry is to be made thereof likewise; and then he is to File the same to the Bill ingrossed.

If while such *Proviso* or Clause is in Debate, any Question be for Amendment thereof, or Addition thereunto before the *Proviso* or Clause be put to the Question; the Question is to be put, Whether such Amendment or Addition shall be made. If that pass in the Negative, and no other be desired, (which, if it be, is in like sort to be proceeded in) the *Proviso* or Clause alone (or if in the Affirmative, then with that Amendment or Addition) is to be put to the Question, whether it shall be part of the Bill as before.

If the House think fit to amend any thing in an ingrossed Bill, the same, so as it

it do not deface the Bill, is to be done
the Table, for after a third reading,
Bill is to be recommitted upon the Ma
or Body of the Bill: so the Journal, 16
but the Debate hath been adjourned
another day. If it be the next day, wi
out any other Debates between; then
who spake to the body of the Bill the d
before, may not speak again to the Bill
any part thereof, no more then he mig
have spoken twice that day.

22. *June*, 1604. The Bill for Restra
of the excessive wearing of Cloth of G
and Silver, Gold and Silver Lace, &c. w
read the third time, and much disput
but the time being far spent, further D
spute and the Question was deferred to t
next morning.

23. *June*, The Dispute touching t
Bill for Apparel was moved and contin
ed. Upon the Dispute of that Bill, som
Members of the House offering to spea
having spoken the day before to the sam
Bill: It was agreed for a Rule. *If a B
be continued in Speech from day to day, t
men may not speak twice to the Matter
the same Bill.*

Or else, a Bill hath been committe
upon some particular Clause or *Provis*

which

which was done in a Case of the Fourth Session of Parliament, in the First year of King *James*, upon the *Bill touching Sea-sands*, and in the third Session of the same Parliament, upon the *Bill of Clothing*: when, upon a Report of the Committee, the next day, a *Proviso* was by direction of the House razed out of the Bill, by the Clerk at the Table, and so the Bill put to the Question, passed.

But if the words to be amended may be done at the Table, it is done there without recommitment:

So 6° *Maii*, 1606. It was much disputed, whether a Bill ingrossed, and found fault with, should be recommitted into the Committee Chamber, or amended at the Table: It was resolved, it should be amended at the Table.

When a Bill is read the third time, if any Clause be resolved by the House to be added, not being tendred in Parchment, the same ought to be written first in Paper, and read twice; and then if it be agreed, and ordered to be ingrossed and added to the Bill, it is then to be ingrossed, and read a third time; and so if it be agreed, is to be passed with the Bill: Thus it was done in the *Bill to restrain the Haunting*

Haunting of Ale-houses, in *June* 160
where a Clauſe was added, That the A
ſhould continue only to the end of th
Firſt Seſſion of the next Parliament.

When all the Clauſes and *Proviſo's* t
the Bill are agreed or rejected, and th
Debate ended, the Speaker is to ask th
pleaſure of the Houſe, whether he ſha
put the Bill to the Queſtion; if it be th
general Senſe of the Houſe, and non
ſtand up to ſpeak againſt it, then he is t
put the Queſtion Affirmatively and Ne
gatively.

If any Member ſtand up before the Ne
gative be put, he having not formerly ſpo
ken to the Matter, he is to be heard.

If it paſs in the Affirmative, an Entry
is to be made thereof in the Journal Book
as of all other the Proceedings aforeſaid:
if in the Negative, the Clerk enters on the
back of the Bill, *Daſhed.*

11 *Novembr.* 1601. Upon Queſtion
after Debate, whether any Member of the
Houſe, after having been a Committee in
any Bill, may afterwards ſpeak in the Ne
gative part againſt the ſaid Bill: It was
reſolved and ordered upon the Queſtion
by the whole Houſe, *That any Member of
this Houſe, that hath been or ſhall be a Com-
mitter*

mitee in any Bill, may afterward speak or argue Negatively to any such Bill, without Impeachment, or imputation of breach of former Order: which said Order and Resolution was appointed by the House to be entred for a future Precedent accordingly.

21° *Martii*, 1588. The *Bill for relief of the City of Lincoln*, was read the third time; and after many Arguments, both for the Bill and against it, the Bill was passed upon the Question, and the division of the House, with the difference of 53. persons, *viz.* with the Bill 118. and against the Bill 65. Which Difference being reported to the House, the Bill was afterwards, according to the ancient Orders of the House in such cases, carried out and brought in again by Mr. Vice-Chancellor, with the Bill in his hand, followed and attended on with all the Members of the House then present, as well those who had first before given their Voices against the passing the said Bill, as those that had given their Votes with the passing of the same.

The Entry is made in the Journal of the Session of Parliament.

4° *Jacobi*, The Question being put for passing

passing a Bill, the House was divided, the *Ye's* went forth, the *No's* sate, and passed in the Affirmative; upon Motion such as sate against the Bill went forth of the House, and brought in the Bill in their hands, which is according to ancient Order, and was now moved, and done once in a Parliament for preserving the memory of the Order, and so expressed by the Mover.

When a Bill is passed after the third reading, there is no further alteration to be made; yet in case of an apparent mistake therein, either by false writing or otherwise, the House hath upon notice thereof, caused the same to be amended the day following, in the House; where the Amendments are to be thrice read, and the Bill again passed, whereof there was a Precedent in 23° *Eliz.* 20° *Januarii.*

In passing a Bill, the Question is but once put.

Maii 18° 1604. The *Bill for shooting in Guns* was put to the Question, and passed in the Negative, as Mr. Speaker judged; It was urged that the Voice was doubtful, and a double Question pressed, but forborn, and this Rule agreed: *No double Question upon the passing of a Bill,*

though

though sometimes upon the committing of it, it is double, if the Voice or Question be not clear.

If it happen that two Bills be depending at the same time, which have so near affinity, as they may be fit to be joyned; after they have been twice read, the House hath sometimes Ordered, that they should be ingrossed as one Bill: this was done in two Bills concerning Treasons, as appears by the Journal Book 16° *Aprilis* 13° *Elizabethæ.*

A Bill once rejected, is not to be offered again the same Session, unless it be altered in some material parts.

15° *Junii*, 1604. Upon Debate of a *Bill for reviving divers Statutes, and repealing others*, a Clause was added by the Committee, to be inserted in an *Act of* 35° *Eliz.* Entituled, *An Act to retain the Queens Subjects in their due Obedience*; to this effect, *That the Husband should not pay for the Wives Recusancy*: which Clause was much argued, and a Question propounded.

The manner of the Question was disputed which way it should be put.

Whether { That this Clause shall stand, *or*,
That this Clause shall not stand:

and

and it was agreed for a Rule, *That upon the adding of any new thing, the Question is to be put in the Affirmative; whether it shall stand upon the continuing of the old: in the Negative, that it shall not stand.*

The Question being, whether the Statute of 43 *Eliz.* Entituled, *An Act for Explanation of a certain Act made* 13 *Elizabethæ, &c.* should be continued: and the House being divided, much Dispute and Difference there was, whether upon this Question the *Yea's* or *No's* should sit: It was thereupon affirmed and conceived for a Rule, *When any alteration is required of a Law in being, (as in this Case) and thereupon the Question put, the* Yea's *must sit still, and the* No's *go forth.*

15 *Iunii*, 1604. A Question being, whether a Law, formerly made, should continue till the end of the next Session of Parliament; much difference and dispute was, whether, upon the Question, the *Yea's* or the *No's* should sit: Upon a Question put, it was resolved, the *Yea's* ought to sit still, and the *No's* to go forth. The House was divided, the Reporters differ in the number, the House divided again this did not satisfie, it being affirmed

firmed to be contrary to Precedent, and
ed much debate, what was to be done:
length, the House was content to let
e Question rest as it was, and thought
to Order a new Bill for reviving the
aw.

May, 1604. Resolved to be entred as
e Judgment of this House, *That no*
peaker from henceforth shall deliver a
ill, whereof the House is possessed, to any
homsoever, without leave and allowance
the House, but a Copy onely. Eodem
ie: *It is no possession of a Bill, except the*
me be delivered to the Clerk to be read,
that the Speaker read the Title of it in
e Chair.

CHAP.

CHAP. X.

Private Bills, and Proceedings on them.

WHen there are many Private Bills, the Houſe hath ſometimes ſet apart certain times for that Buſineſs onely;

As, 7° *Maii*, 1571. It was Ordered, *That the Houſe do begin to ſit on Friday next at Three of the clock in the afternoon, and continue till Five; and ſo every Monday, Wedneſday and Friday, till the end of the Seſſion, the ſame time to be employed only for the firſt reading of Private Bills.*

And in the firſt Parliament of King *James*, It was Ordered, *That the Houſe ſhould meet at Seven of the clock, and the time till Nine of the clock ſhould be ſpent in reading Private Bills.*

When any Private Bills, that is, Bills concerning Private Perſons, Corporations, or ſome one or more particular Shire, or Counties; or any Publique Bill, wherein is any Clauſe or *Proviſo*, that concerns ſuch Perſon, Corporation, County or Counties, is preferred to the Houſe,

or

in agitation in the House, such person or persons may be heard by themselves or Council, either at the Bar of the House, if be desired, or at a Committee to hom such Bill is committed; whereof re many instances.

28 *Junii*, 1607. *A Bill for mending the high-ways in the Counties of* Sussex, Surey *and* Kent, was ruled to be a Private ill; and it was Ordered, That ordinary ues should be paid and performed for e same, or else there should be no fur-er proceeding in it.

20 *Aprilis*, 1606. A Bill was appointed to be read touching the *Fens*; ose who followed the Bill, desired their ouncil might be heard, to open the state their Case, and the equity and reasonbleness of their Petition, before it were ead; but it was not admitted: It being eclared, That if the Council of the ther side desired to be heard, then both hould be received; and accordingly it as ruled, *That Council for the maintenance of any Bill, ought not to be heard before it be opposed.*

22° *Maii*, 1604. It was moved, That whereas the Prothonotaries of the Court of Common-Pleas found themselves agrie-

ved

ved by a *Bill*, preferred into this Ho
for regiſtring Judgements that may
peach Purchaſers, &c. being now ingroſ
their Council might be heard at
Bar upon the third reading; and th
upon it was Ordered, *That Council on*
parts intereſſed, ſhould be heard on Thurſ
following; and upon hearing Council,
Bill was daſhed.

7° *Maii*, 1604. It was moved, Tha
the Proceedings of a *Bill for confirma*
of the Lands of Henry Butler *Eſq*; *u*
the Marriage of his Son, there might
notice given by Mr. Speaker to the
Henry: which was Ordered, and a Le
written accordingly.

In the ſame Seſſion it was moved, T
in the Caſe between *Le Grice* and *Cotte*
notice might be given by Letter under M
Speakers hand, before any further procee
ing; and that Council and Witneſſes migh
be heard at the Committee: which w
Ordered.

In the Caſe of a Bill between the Ea
of *Hertford* and Mr. *Seymour*, Counc
was heard at the Bar; the Earl of *Hert*
ford and the Lord *Henry Seymour* his bro
ther came into the Houſe, and were ad
mitted to come within the Bar, and to
ſit

upon ſtools with their Heads covered.

11. *Febr.* 1557. In the Parliament 4. nd 5. *Phil. & Mariæ*, the Abbot of *eſtminſter* had leave to come with his ouncil to the Bar of the Commons, uching his claim to the Sanctuary of *eſtminſter*; and accordingly he came the xt day in Perſon into the Houſe, and oduced ſeveral Patents to make good his laim; and had a further time given for imſelf and his Council to be heard.

4. *Maii*, 1607. The Council on both des were heard at the Bar in the Houſe on the *Bill for the Marſhalſea*.

11 *Novemb.* 1640. It is Declared as a onſtant Order of the Houſe, That if a Witneſs be brought to the Houſe, the Houſe ſitting, the Bar is to be down; otherwiſe, if the Houſe be in a Committee:

CHAP.

CHAP. XL

In what Cases Members are to withdraw.

18° *Jacobi*, Upon the Report from t Committee for Priviledges, touc ing Election for *Gatton*, Sir *Henry Ba tain* being concerned, and offering speak in his own Case; it was resolved u on long Debate, *he should be heard to info the House, and then go forth.*

21° *Jacobi*, A *Bill* which concerned t *Master and Fellows of Magdalen Colledge Cambridge*, being read the second tim and in Debate, It was moved, that D *Gooch* Master of *Magdalen* Colledge (wh served for the University) and so a party ought to withdraw; It was resolved, H *may first speak, and then withdraw.*

June 1604. A Bill for establishment o divers Mannors, &c. of the late Duke o *Somerset*, being offered to the Question of commitment; it was moved, That Mr *Seymour*, a Member of the House and party to the Bill, might go forth during the Debate; which was conceived to be agreeable to former Orders and Prece-

dents

ents in like Cases, and was so Ordered, nd Mr. *Seymour* went presently forth of oors.

When any Complaint is made against Member, or Exceptions taken to any ing spoken by him, (after he hath been ard to explain himself, if he desire, or e House command it, which is usually one by him standing in his place) if the ouse be not satisfied, but fall into De- te thereof, such Member is to with- aw; as in the several Cases of Doctor rry, the Chancellor of the Dutchy, and hers appears.

CHAP. XII.

Censures of Members for offensive Words or Misbehaviour.

THough freedom of Speech and D bates be another undoubted Pri ledge of the House; yet whatsoever spoken in the House, is subject to the c sure of the House: and where they fi cause (as, *In licitis facile fines transg dimur*) offences of this kind have b severely punished, by calling the per to the Bar, to make submission; comm ting him to the Tower, (being the usu Prison to which the Commons did co mit Delinquents) expelling the Hou disabling him to be a Member during th Parliament, and sometimes of any fut Parliament.

The Entries in the Journal I find to as followeth:

17. *May*, 1572. Upon sundry Motio made by divers Members of the House, was Ordered, That *Arthur Hall* Esq; sundry Speeches used by him in the Hou and abroad, should be warned by the Se jeant to be at the House on Monday fo lowin

owing, and at the Bar, to anſwer Matters charged againſt him; and all ſuch perſons as had noted his Words, either in the Houſe or abroad, were forthwith to meet, and ſet down the ſame Words in writing, and deliver the ſame to the Speaker.

On Monday following, Mr. *Hall* was brought to the Bar by the Serjeant, was charged with ſeveral Articles, and confeſſed his folly; and humbly ſubmitted himſelf to the Houſe, and was remitted.

8. *Febr.* 1575. *P. W.* Eſq; one of the Burgeſſes of *Tregony* in the County of *Cornwal*, was, for unreverend and undu-tiful Words uttered by him in the Houſe, touching the Queen, ſequeſtred; that the Houſe might proceed to conference and conſideration of his ſaid Speech: upon Debate whereof he was committed to the Serjeants Ward, as Priſoner, and ſo remaining, ſhould be examined upon his ſaid Speech, for extenuating his fault therein.

The next day a Report was made of his Examination and confeſſion of the words; he was brought to the Bar by the Serjeant, received this Judgment by the mouth of Mr. Speaker.

That he ſhould be committed cloſe

ptiſoner to the Tower, till the Houſe ſhould take further conſideration concerning him.

4° *Febr.* 1580. Being the third Seſſion of the Fourth Parliament of Queen *Elizabeth* 23. Year of her reign, complaint was made in the Houſe againſt *Arthur Hall* Eſq; before named, who had cauſed a Book to be printed, wherein was publiſhed the Conferences of the Houſe; and in it was contained matter of Reproach againſt ſome particular Members of the Houſe, derogatory to the general Authority, Power, and State of the Houſe, and prejudicial to the validity of the Proceedings of the ſame. The matter was referred to a Committee to examine, and upon Report thereof, and bringing the ſaid Mr. *Hall* to the Bar ſeveral times to Anſwer; he was ſentenced by the Houſe to be committed to the Tower, (as the perſon proper to this Houſe) there to remain for the ſpace of Six months, and ſo much longer, as until he ſhould himſelf willingly make a Retractation of the ſaid Book, to the ſatisfaction of the Houſe, or of ſuch Order as the Houſe ſhould make during that Seſſion.

That the ſaid *Arthur Hall* ſhould be fined

fined to the Queen Five hundred pounds for his ſaid Offence.

That he ſhould be preſently ſevered and cut off from being a Member of this Houſe during this Parliament, and a Writ to iſſue for Election of a new Burgeſs, for the Borough of *Grantham*, in his ſtead.

That the ſaid Book ſhould be deemed, and adjudged falſe and erroneous.

Thereupon, the ſaid Mr. *Hall* was brought to the Bar, unto whom Mr. Speaker, in the name of the whole Houſe, pronounced the ſaid Judgment, in form foreſaid; and the Serjeant was commanded to take charge of him, and to convey him to the Tower, and deliver him to the Lieutenant of the Tower, by Warrant of this Houſe to be ſigned by the Speaker.

18. *March*. 1580. He having continued Priſoner in the Tower without any Retractation, the Houſe appointed a Committee to allow the ſaid Retractation, and to report it to the Houſe at the next Seſſion.

It appeareth by the Journal 21 *November*, 1586. That he was diſabled for ever to ſerve in Parliament.

17. *December*, 1584. A Bill againſt

Jeſuits and Seminary Prieſts paſſed upon the Queſtion: Dr. *Parry* onely gave a Negative; and after inveighed in violent Speeches againſt the whole Bill. Upon which, he was ſequeſtred from the Houſe into the outer room, into the hands of the Serjeant, and not to confer with any while the Houſe was in debate of that Buſineſs. Afterwards he was brought to the Bar, and there kneeling, was told by the Speaker, If he thought fit, the Houſe was content to hear his Reaſons; but he refuſing, was committed to the Serjeant Ward.

The next day he was brought to the Bar, and kneeling, confeſſed he had undutifully behaved himſelf; and had raſhly and unadviſedly uttered thoſe Speeches he had uſed; and was, with all his heart, very ſorry for it: Alledging withall, he had never been of the Houſe till that Seſſion, and ſo could not ſo well know the Orders of the Houſe as he ſhould do; and that he would not henceforth willingly offend the Houſe, nor any one man in it; and ſo humbly prayed their good favor towards him. Whereupon, being again ſequeſtred out of the Houſe, after ſome Arguments and Debates, it was reſolved, Upon this ac-

know-

knowledgement of his fault, and his humble ſubmiſſion, he ſhould be received into this Houſe again, as a Member thereof, and take his place as before, ſo that he would ſtill afterwards behave himſelf in good ſort as he ought to do: and thereupon, being called again to the Bar, and there kneeling, and directly reiterating his former Confeſſion of his fault, and humble ſubmiſſion, with promiſe of better demeanor, he was admitted.

13. *Febr.* 1606. Upon a Report made in the Houſe, of the Remembrances formerly ſet down of the particulars of a Conference, the Speaker offering to read the Paper, and being interrupted by ſome Motions and Diſputes, whether they ſhould be read one by one and ſo debated, or all at once: in that difference, one of the Knights for *Buckinghamſhire*, with a loud voice (not ſtanding up bare-headed, as the Order is) preſſed to have them read. The Houſe obſerving his earneſtneſs, and manner of fitting and calling, for Orders ſake urged him to ſtand up and ſpeak. He ſtood up, and pretending to offer ſome Reaſons, fell into an Invective againſt the Scots, much diſtaſting the Houſe; yet out of a common care to ex-

pedite the weighty Buſineſs then in hand his Speech was neglected without Tax or Cenſure.

But on Monday following it was remembred, and his words of offence recited in particular; the Gentleman being abſent, was ſent for by the Serjeant.

Touching the manner of proceeding in this Caſe, many Motions and Queſtions were moved: as, 1. Whether to name a Committee to conſider wherewith to charge him. 2. Whether to cenſure him upon their own knowledge, without other Circumſtances, the fault being apparent. 3. Whether to charge him in general, or with the particular Words. Much was ſaid upon theſe Queſtions *pro* and *contra*, and the Precedents of *Parry* and *Throckmorton* remembred, wherein for Words ſpoken in the Houſe, the Proceeding was by the Houſe, and not by Committee; the Offences generally charged, and puniſhed, and the Words put in oblivion: and ſo in this Caſe, the Judgment and Proceeding reſolved to be accordingly.

The Serjeant having brought the Offender, it was moved he might be heard at the Bar, which was aſſented unto; and after he had ſpoken, he was commanded

to

to retire; and not long after, was called in again to the Bar, where kneeling, Mr. Speaker acquainted him, since the Offence was so apparently hainous, the House did not hold it fit, that any particulars should be named, or to give any Reason of their Judgment; but the Order was, He should be carried to the prison of the Tower, and there remain during the pleasure of the House: and that he should be dismissed from his place of Knight of the Shire for *Bucks*, and a new Writ to issue for a new Choice.

15. *Febr.* 18. *Jacobi*, A *Bill* being read the second time *for the better Observation of the Sabbath*: one of the Members made an Invective against it, and something which seemed to reflect on a Member of the House who presented it, as savouring of a Puritan and a Factious spirit. Exceptions were taken at the words. After he had explained himself, he was ordered to withdraw out of the House; and Debate being had, he was called to the Bar, and upon his knees, he received the Judgement of the House pronounced by the Speaker: That he should be discharged from the Service of the House; with an intimation, that his Judgement was very

merciful, for that the House might for
exorbitant an Offence, have Imprison
and further punished him.

3. *April*, 1604. In a Debate upon
Bill, a Member of the House uttered som
Speeches highly distasting the House; b
no notice was taken of it till the Bill w
committed, and then the Words bein
repeated, he was called to the Bar, whe
he made his excuse, and was pardoned.

26. *April*, 1641. Great Offence was take
by the House at words spoken by Mr *J.H*
He was first heard to explain himself, an
then commanded to withdraw, and w
called to the Bar and suspended the Hou
during that Session of Parliament.

27. *May*, 1631. A Paper was brough
in containing Words spoken by Mr. *Tayl*
a Member of the House, concerning th
passing the Bill of Attainder of the Earl o
Strafford: who being heard to explai
himself, and then commanded to with-
draw; after some Debate in the House
it was resolved, That he should be expel-
led the House; be made uncapable of ever
being a Member of this House; and shoul
forthwith be committed prisoner to th
Tower, there to remain during the plea-
sure of the House; and should make an
acknow-

acknowledgement of his Offence, both at the Bar and at *Windsor* publiquely. And he was called to the Bar, and there kneeling, Mr. Speaker pronounced the Sentence accordingly.

Of later times it hath been observed, as most conducing to the Service of the House, that if in Debate Words be let fall that give offence, Exceptions should be taken the same day, and before such Member go out of the House; or he who is offended may move, That such person may not go out of the House, until he hath given satisfaction in what was by him spoken. And in such Case, after the present Debate is over, the words must be repeated by the person excepting; and in case he desire, or the House command him, he is to explain himself, standing in his place; which if he refuse to do, or the House be not satisfied with such Explanation, then he is to withdraw: But neither is this to interrupt the present Business of the House, as in the cases beforementioned; nor if it be omitted that day, hath it been recalled afterwards to avoid mistakes, and out of a willingness rather to pass by, then take occasion of Offence.

13. *May*, 12 *Jacobi*, Upon report of the Amendments to the Bill for the due observation of the Sabbath day, complaint was made that ſome indignity was offered to Sir *R. Owen*, when he was in the Chair at the Committee, by Sir *W. H.* that told him he was partial; and by Sir *R. K.* who took him by the hand, and told him, he would pull him out of the Chair, that he ſhould put no more tricks upon the Houſe.

Sir *W. H.* being preſent, made an acknowledgment of his Error, which upon the Queſtion was taken for a good ſatisfaction.

Sir *R. K.* was Ordered by the Houſe to acknowledge his error at the Bar.

19 *Jacobi*, Some ſpeeches paſſing in the Houſe privately between two of the Members, and ſome offence taken, which ſeems was not intended to be given; one of them in going down the Parliament ſtairs ſtruck the other; who thereupon catched at a ſword then in his mans hand to ſtrike with it. Upon complaint made of it to the Houſe, they were both of them ordered to attend the Houſe. Being come he who gave the blow was called in, and ſtanding (not at the Bar, but) by the

Bar

Bar, was examined by Mr. Speaker; confeſſed the giving the blow, inſiſted on the provocation, and withdrew. The other was alſo called in, to relate the truth. After he had made the relation, and was likewiſe withdrawn, and teſtimony given by a Member of the Houſe who heard the words; the Houſe proceeded to Sentence againſt Mr. *C.* who ſtruck the blow: he being brought to the Bar, there on his knees he received Judgement, which was pronounced by the Speaker, That he ſhould be committed to the Tower during the pleaſure of the Houſe.

CHAP.

CHAP. XIII.

Calling the Houſe.

THere are two ends of Calling the Houſe.

1. To diſcover whether any were in the Houſe, who are not returned by the Clerk of the Crown in Chancery; it having been accounted a great Crime, and ſeverely puniſhed.

5. *Martii*, 1557. In the Parliament held 4 & *Phil.* & *Mariæ*, I find this Entry.

For that *Chriſtopher Perne* affirmed that he is returned a Burgeſs for *Plimpton* in *Devon.* and hath brought no Warrant thereof to the Houſe, nor is returned hither by the Clerk of the Crown, by Book or Warrant; he is awarded to be in the cuſtody of the Serjeant, till the Houſe have farther conſidered.

It appears by that Book afterwards that he was choſen a Burgeſs, and admitted.

9. *January*, 1562. In the ſecond Parliament of Queen *Elizabeth*, For that it ſeemed

ſeemed to the Houſe, being very full, that there were a greater number then was returned; therefore the Names were immediately called over, and as they were called, departed out of the Houſe.

7 *Febr.* 1588. The Houſe was called, and every one anſwered to his name, and departed out of the Houſe as they were called.

2. But chiefly the Calling the Houſe, is to diſcover what Members are abſent without leave of the Houſe, or juſt cauſe; in which caſe, Fines have been impoſed. And on this occaſion, if the Houſe be called, the manner hath been to call over the Names, and each Member to ſtand up at the mention of his name, uncovering his head. Such as are preſent are marked, and the Defaulters called over again the ſame day, ſometimes the day after, ſometimes ſummoned, ſometimes ſent for by the Serjeant.

19. *June*, 1607. The Houſe was called by the general Book of Names, in order as they were ſet down by the Clerk of the Crown at the beginning of the Parliament, (ſo it is there entred) The Clerk called every one by his name; the perſon called, if preſent, riſeth up bare-headed, and

and answereth; if absent, he is either excused, and so entred, *viz.*

either { *Licentiatur per speciale servitium*
Excusatur ex gratia.
Ægrotat.

If none excuse him, he is entred, *Deficit.*

That no Person may sit in the House until he be so returned as aforesaid, appears by several Instances of Persons who were not Members; and for coming into the House, were brought to the Bar, and some committed; and some sworn before they departed, to keep secret what they had heard there.

CHAP.

CHAP. XIV.

Petitions in Parliament:

PEtitions are usually presented by Members of the same County; if they be concerning private Persons, they are to be subscribed, and the Persons presenting them, called in to the Bar to avow the substance of the Petition, especially if it be a Complaint against any.

So 18. *November*, 1640. one *Vivers* presented a Petition in the name of the Major, Aldermen, Burgesses, and other Inhabitants of *Bambury*, was called in, and did acknowledge the hand to the Petition to be his; and that he did deliver it by order, and on behalf of the Town of *Bambury*, and thereupon it was committed.

The like, in the same Parliament, upon reading the Petition of one *Ward* of *Salop*: And likewise on reading the Petition of *Henry Hoogan*.

CHAP.

CHAP. XV.

Priviledge of Parliament.

IT is often mentioned in the Journa upon Debates, That Priviledge w due *eundo*, *morando*, *redeundo*, for the pe fons of Members, and their neceſſary Se vants; and in ſome caſes for their Goo and Eſtates alſo during that time.

Some Queſtion hath been touching th time in which the Priviledge is to be a lowed, and the manner how it is to b obtained.

For the firſt, the Precedents are ver numerous for allowing *Priviledge* durin the Seſſion.

1. For their own perſons, They hav been priviledged from Suits, Arreſts, Im priſonments, attendance on Trials, ſer ving in Juries, and the like; yea, from be ing ſummoned or called to attend upon an Suit in other Courts by *Subpœna* ſerved o them. To begin with the latter.

Subpœna.

In the Parliament 4 & 5 *Phil. & Ma riæ*, 29. *January*, 1557. *Thomas Emm* Burgeſs for the Borough of *Thusk*, com plained that a *Subpœna* was delivered him to appear in Chancery, and required the

Priv

Priviledge of the Houſe; whereupon Sir *Clement Higham* and Mr. Recorder of *London* were ſent to the Lord Chancellor to revoke the Proces.

And albeit an Entry is made in the Journal 10 *Februarii*, 1584. 26 *Elizabethæ*, That upon Motion made touching the opinion of the Houſe for Priviledge, in caſe of a *Subpœna* ſerved out of the Chancery upon M. *Richard Cook* a Member of the Houſe: It was Ordered, That the Recorder of *London*, and two other Members of the Houſe, attended by the Serjeant, ſhould repair preſently in the name of the whole Houſe, into the Body of the Court of Chancery, and there to ſignifie to the Lord Chancellor and Maſter of the Rolls, That by the ancient Liberties of this Houſe, the Members of the ſame are priviledged from being ſerved with *Subpœna's*: and to require withall, not onely the diſcharge of Mr. *Cook's* Appearance, but from thenceforth, to grant Priviledge for other Members, upon the requeſt of the Houſe ſignified under the Speakers hand: which Mr. Recorder and the reſt did accordingly. But they return this anſwer, That the Lord Chancellor told them, he knew no ſuch Priviledge

ledge touching *Subpœna's*, and would
allow it, unleſs the Houſe did prove it
been allowed alſo in that Court of Ch
cery: whereupon Precedents were dir
ed to be viewed; but within few days
ter the Parliament ended.

Yet the practice in ſucceeding times
clares the Priviledge, as appears by
Inſtance following, (which was the n
Year after) and theſe that follow, wit
multitude more which might be m
tioned.

27 *Eliz.* One *Kirle* having cauſed
Subpœna out of the Star-Chamber to
ſerved on a Member of the Comm
Houſe; and for want of Appearance,
ken out an Attachment, and inforced
payment of Money to diſcharge the ſa
the ſaid *Kirle* was committed till he h
paid coſts to the perſon ſerved, and ma
a ſubmiſſion to the Houſe on his knee
the Bar.

15. *Maii*, 1604. A *Subpœna* out of t
Chancery to appear, was ſerved on t
perſon of Sir *Robert Needham* Knight,
Member of Parliament: upon complai
thereof, the Serjeant was ſent to Attac
the body of him who ſerved the *Subpœ*

7 *Maii*, 1607. The Serjeant was ſe

or *Edward Throckmorton*, for ſerving a *Subpœna* on Sir *Oliver Cromwel*.

14 *Maii*, 19 *Jacobi*, Upon complaint of the ſervice of a *Subpœna* on a Member of this Houſe, Sir *Edward Coke* vouched Precedent; 10 *Edwardi* 3. That a *Subpœna* being ſerved on the Clerk of this Houſe, the party was committed for breaking the Priviledge of this Houſe.

4 *Maii* 1607. A *Subpœna* out of the Exchequer being ſerved on Sir *R: Pawlet* Member of the Houſe; the Houſe thought fit to grant Priviledge, and that the ſame courſe ſhould be taken, as in other the like caſes are uſual: *viz.* The Serjeant by his Mace to Attach the parties Delinquents, and to bring them to the Bar, to receive the Judgement of the Houſe; and Mr. Speaker the next day wrote a Letter to the Lord chief Baron, that no further Proces do iſſue againſt the ſaid Sir *R. Pawlet*.

3 *Decemb.* 19 *Jacobi*, Upon occaſion of a *Subpœna* ſerved on Mr. *Breeriton*, it was agreed by the whole Houſe, That the ſerving of a *Subpœna* upon a Member of this Houſe, knowing him to be a Parliament man, is a Breach of Priviledge; and *Clapper* who ſerved the *Subpœna* was committed.

Arreſt.

33 *Eliz.* The Sheriffs of *London* fined by the Commons, and ſent to Tower, for not delivering a Burgeſs reſted for Debt, ſitting the Parliam

6. *April*, 1593. The Serjeant at Mace who arreſted Mr. *Neal*, a Mem of this Houſe, upon an Execution; as *Weblin*, at whoſe Suit he was arreſt contrary to the Priviledge of this Ho were this day brought to the Bar, were both committed Priſoners to Tower; and the Serjeant at Arms atte ing this Houſe, was ordered to deliver th over to the Lieutenant of the Tower.

Utlary.

13. *May*, 1607. *Nicholas Allen* an torney, and *Palmer*, at whoſe Suit *Martin*, a Member of this Houſe, was ou lawed, were ordered to be ſent for by Serjeant, and brought to the Bar to ſwer their Contempt.

Attachment.

In the ſame Parliament, there be Complaint, that an Attachment was tak

rth againſt Mr. *Bellingham*, a Member this Houſe, out of the Court of Chanry, for a Contempt; the Houſe ordered to have Priviledge, and a Letter was dered to be ſent to Mr. *Evelin*, one of e ſix Clerks, to ſtay the Suit.

Iſſues.

A Writ of Petition being iſſued out, a Writ was directed to the Sheriff, to levy l. Iſſues upon Sir *Robert Oxenbridge*, Non-appearance; the ſame was comained of, and the Houſe granted Priviidge, with this, That if the Iſſues were ot diſcharged before the next day at ight, the parties Delinquent were the ay after to be brought to the Bar by the erjeant.

Tryals.

14. *May*, 1576. Sir *Edward Montague*, Member of the Houſe, was warned to ttend a Tryal in *London*, which was to be ad againſt him; and was by Order of the Houſe priviledged; and the party that ave the warning, was ſummoned to apear at the Bar the next morning.

21. *Febr.* 1588. Upon Motion made by

by divers Members of the House, hav
Writs of *Nisi prius* brought against the
that Writs of *Superſedeas* might be
warded, in reſpect of the Priviledge
this House, due to the Members: It
Ordered, That thoſe Members of t
House, who have occaſion of ſuch Priv
ledge, ſhould declare their Caſe to t
Speaker, who ſhall thereupon direct t
Warrant of this House to the Lord Cha
cellor for awarding ſuch Writ of *Super
ſedeas.*

3. *Martii*, 18 *Jacobi*, Upon a Repo
from a Committee appointed to conſid
of a way of ſtaying Tryals againſt Mem
bers of the House; That by ſeveral Pre
cedents, the Cuſtom appeared to be i
ſuch Caſes, That on Motions and Orde
in the House, Letters were written to th
Juſtices of Aſſize for ſtay of Tryals againſt
Members of the House; which Letter
were entred in the Journal Book, an
that it belongeth to the Clerk to writ
the ſame. It was thereupon reſolved, Tha
the former courſe of writing Letters t
the Juſtices of Aſſize, ſhould be held ac
cording to former Precedents.

10 *Junii*, 1607. Sir *Robert Johnſon* a
Member of the House moved for a Letter

to

o ſtay a Tryal againſt him in the Exche-
uer, which was granted, as appeareth
y the Entry on the 13th day, when a Pe-
tion of Sir *Robert Brett* was read againſt
at Priviledge. The Priviledge formerly
anted was affirmed, upon this Reaſon,
hat no man ſhould have any thing to
ithdraw him from his Service in the
ouſe. The like 14 *Feb.* 18 *Jacobi.*

And ſo much this Priviledge hath been
iſted on by the Houſe, that it hath been
Queſtion, Whether any Member of the
ouſe could conſent that himſelf ſhould
e ſued during the Seſſion; becauſe the
riviledge is not the perſons ſo much as
e Houſes: And therefore, when any
erſon hath been brought to the Bar for
y Offence of this nature, the Speaker
ath uſually charged the perſon in the
ame of the whole Houſe, as a breach of
e Priviledge of the Houſe.

And when, 3. *June*, 1607. Sir *Thomas*
olcroft a Member of the Houſe, had oc-
ſion to ſue at Law, and was ſued, with
hich he was content, and deſired the
ave of the Houſe; there was a Queſtion,
hether the Houſe ſhould give leave for
breach of Priviledge, and it was reſolved
he Houſe might give leave.

Juries,

Juries.

7 *Maii*, 1607. Sir *Thomas Bigg* a
Sir *Thomas Love*, being returned upon
Attaint in the Kings Bench; it being mo
ved, that in this Case they ought to hav
Priviledge: it was so ordered, and the Se
jeant sent with his Mace, to deliver th
pleasure of the House to the Secundary
the Court sitting.

22. *Novemb.* 1597. Sir *John Tracy*,
Member of this House, being at the Com
mon-pleas Bar, to be put upon a Jury
the Serjeant at Arms was presently sen
with his Mace to fetch him thence, to a
tend his Service in the House.

Commitment.

April 12 *Jacobi*, Sir *William Bampfie*
was committed by the Lord Chancell
for a Contempt, after the Writ of Sum
mons, but before the Election. Order
upon the Question, That he shall have h
Priviledge by Writ of *Habeas Corpus*.

Sheriff.

1 *Jacobi*. 2 *Sess*. Sir *John Peyton* Knigh
for *Cambridge*, being returned the la
Session

Seſſion, and ſince choſen Sheriff; Mr. Speaker moved to know the pleaſure of the Houſe, Whether he ſhould attend his Service here: And it was reſolved upon the Queſtion in the Houſe; he ſhould attend his Service here.

Priviledge to Servants.

Priviledge was alſo granted to the *Servants* of *Members* during the ſitting of Parliament.

16 *Febr.* 5 *Eliz.* *Robert Parker* Servant to Sir *William Woodhouſe* Knight for *Norfolk*, being attached in *London*, at the Suit of one *Baker*, in a Treſpaſs; had a Warrant of Priviledge, notwithſtanding Judgement given againſt him for Four Marks.

20 *Febr.* 18 *Eliz.* 1575. Upon the Queſtion, and alſo upon Diviſion of the Houſe, *Edward Smaley* Servant unto *Arthur Hall* Eſq; one of the Burgeſſes for *Grantham*, being arreſted upon an Execution, had Priviledge.

16 *Decembr.* 44 *Eliz.* *Anthony Curteen* Servant to *William Huddleſton* Eſq; one of the Knights of *Cumberland*, being arreſted upon a *Capias ad ſatisfaciendum*,

out of the Common-Pleas, for six pounds Debt, and Forty shillings Damages, and detained in Execution; a *Supersedeas* was awarded, and he was delivered.

11 *Maii* 19 *Jacobi*, The Under-sheriff of *Middlesex* was called to the Bar, for causing *Alexander Melling* Servant to the Chancellor of the Dutchy to be arrested; he denied he knew him to be his Servant: Mr. Speaker let him know, the House had ordered him to have Priviledge; and therefore ordereth the Under-sheriff to discharge him.

2. Session of the Parliament 1 *Jacobi*. Sir *Edward Sandys* moveth a breach of Priviledge by Sir *Robert Leigh* a Justice of Peace, for committing his Coachman to *Newgate*: Sir *Robert Leigh* was sent for by the Serjeant, and an *Habeas Corpus* for the prisoner. Sir *Robert Leigh* being brought to the Bar, acknowledged his fault, and was discharged, and so was the prisoner.

3 *Maii*, 1606. *Valentine Syre* Servant and Bag-bearer to the Clerk of the Commons House, being arrested upon an Execution, was by Order and Judgment of the House enlarged.

7 *Sep.* 1601. *Woodal* Servant of *William* *Cook*

Cook Esq; a Member of the House, being arrested, and in prison in *Newgate*; the Serjeant at Arms was presently sent to *Newgate* to bring him to the House, *sedente Curia*; and being brought to the Bar with his Keeper, was discharged by Order of the House from his said Keeper, and from his Imprisonment.

1 *July*, 1607. *John Pasmore* the Marshals man, being sent for and brought to the Bar, for arresting *John Jessop* Waterman, Servant to Sir *Henry Nevil*, a Member of the House; he denied that he knew he was Sir *Henry's* Servant until afterwards; notwithstanding, he took an *Assumpsit* from him to answer the Action: The House thought fit to commit him to the Serjeant till the House's pleasure were further known, and till he had discharged the *Assumpsit*, and paid the Fees.

17. *June*, 1609. Upon a Report of the Committee for Priviledges, That a menial Servant of Sir *Robert Wroth* was arrested eight days before this Session; the Serjeant was sent for the prisoner, and the Serjeant that made the arrest, one *King* who followed it, and *Fisher* at whose Suit he was arrested.

4 *Junii*, 19 *Jacobi*, *Johnson* a Servant

to Sir *James Whitelock*, a Member of the Commons Houſe, was arreſted upon an Execution by *Moor* and *Lock*, who being told Sir *James Whitelock* was a Parliament man; *Fulk* one of the Perſecutors ſaid, He had known greater mens men then Sir *James Whitelock* taken from their Maſters heels in Parliament time. This appearing, *Lock* and *Moor* were called in to the Bar, and by the Judgment of the Houſe were ſentenced,

1. That at the Bar they ſhould ask forgiveneſs of the Houſe, and of Sir *James Whitelock* on their knees.

2. That they ſhould both ride upon one horſe bare-backed, back to back, from *Weſtminſter* to the *Exchange*, with papers on their breaſts, and this Inſcription, *For Arreſting a Servant of a Member of the Commons Houſe of Parliament*: and this to be preſently done *ſedente Curia*: which judgment was pronounced by M. Speaker againſt them at the Bar upon their knees.

28 *Aprilis* 22. *Jacobi*, A Warrant was Odered to be iſſued by the Speaker for a Writ of Priviledge, to bring up *Andrew Bates* ſervant to Mr. *Richard Godfrey* of the Houſe, in Execution with the Sheriff of *Kent*, at the ſuit of one *Hunt*.

Goods.

That the Members of this Houſe have alſo Priviledge for their Goods, is not without ſome Precedent.

12 *March.* 1606. Complaint was made by Mr. *James*, a Burgeſs of Parliament, That his horſe ſtanding at his Inn was taken by the Poſt-maſters ſervant; both the Poſt-maſter and his ſervant were ſent for and brought to the Bar: *Moreton* the Poſt-maſter appearing to be ignorant of what his ſervant had done, and diſavowing it, was by Order of the Houſe diſcharged: But upon the teſtimony of a witneſs at the Bar, that he told the ſervant when he took the horſe, that a Member of Parliament was owner of it the ſervant was commited.

In Adjournment.

During the Adjournment, like Priviledge was granted and affirmed.

In *December* 1606. *Thomas Finch*, a ſervant to Sir *Nicholas Sandys* Knight, one of the Bugeſſes for *Quinborough*, was arreſted during the Adjournment; which being conceived to be a great Contempt

to the Priviledge of the Houſe, an *Habeas Corpus* was awarded to bring him to the Houſe, and he was accordingly brought, and alſo one *Knight*, who procured the arreſt, and *Harriſon* the Yeoman.

The excuſe was, *Finch* was an Attorney at Law, yet it being avowed by Sir *Nicholas Sandys*, that *Finch* lay in his houſe, ſolicited his Cauſes, and received Wages from him; and it being inſiſted on, that all menial and neceſſary ſervants are to be priviledged, and inſtance given of a Precedent of the Baron of *Walton's* Solicitor, and *Huddleſton's* Solicitor, in the time of Queen *Elizabeth*: upon the Queſtion, *Finch* was priviledged, and delivered according to the ſaid Precedents.

During that Adjournment, a Suit was proſecuted in the Court of Wards againſt *Nicholas Potts* Eſq; and *Francis Wethered* Gent. Committees of a Ward which concerned Mr. *Nicholas Davyes*, ſervant to the then Speaker, as Aſſignee of the Ward. The Speaker by vertue of a former general Order of the Houſe, wrote a Letter to Sir *Cuthbert Pepper* Surveyor of the Court of Wards and Liveries, to make known to the Court, That the ſaid *Davyes* was one of his Clerks, and neareſt Ser-

vants,

vants, and the Priviledge now as warrantable as in time of sitting; and therefore prayed him and the Court to take notice of it.

During another Adjournment in *March* following, the Speaker warranted by the like general Order, at the desire of Sir *Edmund Ludlow*, who was summoned to attend the Execution of a Commission out of the Chancery, wrote a Letter to the Commissioners to Excuse his attendance, and that he should not be prejudiced by his absence.

In *May*, 1607. during an Adjournment, the Speaker directed a Letter to the Lord President and Council at *York*, to stay Proceedings in a Suit against *Talbot Bowes* a Member of this House.

Priviledge, as well before as after the Parliament.

The great Question is, Within what time this Priviledge may be claimed before and after the sitting of the Parliament. It is clear, it hath been claimed and allowed for some time before, and after the sitting. One Precedent may serve, because it is famous, and for the proceedings in it *instar omnium*.

1 *Jacobi*, The first day of sitting, complaint was made, That Sir *Thomas Shirley* chosen a Member of the House, was arrested four days before the sitting of this Parliament; a Warrant issued to the Clerk of the Crown for a *Habeas corpus*, to bring him to the House being then prisoner in the Fleet; and the Serjeant and his Yeoman were sent for in custody, who being brought to the Bar, and confessing their fault, were remitted for that time: The Writ being not executed, the House fell again into Debate touching the Priviledge, and how the Debt to the party might be satisfied, because the Debt was gone if the party were delivered; and thereupon came to three Questions:

1. Whether Sir *Thomas Shirley* shall have Priviledge.

2. Whether presently, or be to deferred till further Order.

3. Whether the House should be Petitioners to the King, according to former Precedents, for some course, for securing the Debt to the party, and saving harmless the Warden of the *Fleet*. All which Questions were resolved in the Affirmative, and a Bill drawn to secure *Simpsons* Debt, &c. which also produced a

Bill

Bill for relief of Plaintiffs in Writs of Execution, where the Defendants in such Writs are arrested, and set at liberty by Priviledge of Parliament.

17. *April*, Upon hearing Council in the House at the Bar, for Sir *Thomas Shirley* and the Warden of the *Fleet*; and upon shewing divers Precedents, 39. *Hen.* 6. one *Clark* taken in Execution before the Parliament begun, was priviledged 30. *Hen.* 6. *Ferrers* Case in *Hollingsheads* Chronicle; the Case of *Huddleston*'s servant before remembred; this being added, that his Body was freed, but his Lands and Goods left subject. It was Ordered, That *Simpson* at whose Suit, and the Serjeant by whom the Arrest was made, should be committed to the Tower.

4. *May* following, an *Habeas corpus* was awarded to the Warden, to bring Sir *Thomas Shirley* to the House; the Warden denied to execute it, for which 7. *May* following, he was sent for by the Serjeant, and brought to the Bar, who denying to bring his Prisoner, a new Writ of *Habeas corpus* was awarded, and the Warden was committed to the Serjeant, with this, That if that Writ were not executed,

then he should be delivered over to the Lieutenant of the Tower, as the House's prisoner.

8. *May*, The Serjeant was sent with his Mace to the *Fleet*, the House sitting, to require the Body of Sir *Thomas Shirley*, being directed by the House to pursue the Precedent of *Ferrers*, recorded in *Hollingshead's* Chronicle, and in the Book of Jurisdiction of Courts by *Crompton*: but the Serjeant being denied, a Warrant was made to the Serjeant, to deliver the Warden of the *Fleet* to the Lieutenant of the Tower, to be kept close prisoner.

11. *May*, The Warden was again sent for, and brought to the Bar, and refusing to deliver up his prisoner, he was committed to the place called the Dungeon, or Little-ease, in the Tower.

14. *May*, A new Warrant was ordered for a new Writ of *Habeas corpus*, and that the Serjeant should go with the Writ; that the Warden should be brought to the Door of the *Fleet* by the Lieutenant himself; and there the Writ to be delivered to him, and the Commandment of the House to be made known to him by the Serjeant, for the Executing of it. That in the mean time, the Warden to be

presently

presently committed to the Dungeon and after to be returned thither again.

18. *May*, The Warden did deliver Sir *Thomas Shirley*, and so was not put into the Dungeon.

19. *May*, He attending at the door, was brought in to the Bar, where, upon his Knees, confessing his error and presumption, and professing he was unfeignedly sorry he had so offended this Honorable House; Upon that submission, by direction of the House, the Speaker pronounced his pardon and discharge, paying ordinary Fees to the Clerk and the Serjeant.

That this Priviledge doth take place by force of the Election, and that before the Return be made, appears by the proceeding in the Case following.

19. *November*, 1601. Upon Information to the House, that one *Roger Baston* Servant unto *Lenton*, Baron of *Walton*, who (upon credible repott of divers Members of the House, was affirmed to be chosen a Burgess for the Borough of *Newton* in *Lancashire*, but not yet returned by the Clerk of the Crown) had been during that Session of Parliament arrested in *London*, at the Suit of one *Muscle*;

Muſcle; the ſaid *Muſcle*, together with the Officer that made the arreſt, were ſent for by the Serjeant and brought to the Bar; and there charged by Mr. Speaker in the name of the whole Houſe, with their Offence herein: and having been heard, *Baſton* was ordered to have Priviledge, and to be diſcharged of his Arreſt and Impriſonment, and the Offenders for three days committed to the Serjeant; and ordered to pay ſuch Charges to *Baſton*, as the Speaker ſhall ſet down, and their Fees.

For how long time before, and after the Parliament.

By theſe Inſtances, as alſo by *Clark's* Caſe, 39. *Hen.* 6. and the Caſe of Sir *Robert Wroths* ſervant before recited, it appeareth, That Priviledge doth take place before the Parliament begin, but for what time is the Queſtion: what appears by the Journall Book tending to clear it, is thus.

6. *March*, 1586. This day *William White* brought to the Bar, for arreſting Mr. *Martin* a Member of the Houſe, made anſwer, That the Arreſt was above fourteen

fourteen days before the beginning of the Parliament: the House thereupon appointed a Committee to search the Precedents.

Upon Report made, that Mr. *Martin* was arrested above twenty days of the beginning of the Parliament, held by prorogation; and upon Debate, the House being divided in opinion about the Priviledge; for the ending of the busines, three Questions were propounded by the Speaker.

1. Whether the House would limit a time Certain, or a Reasonable time, to any Member of the House for his Priviledge?

The House answered, *A Convenient time.*

2. Whether Mr. *Martin* was arrested within this Convenient time?

The House answered, *Yea.*

3. If *White* should be punished for arresting Mr. *Martin?*

The House answered, *No.* And the reason is given, Because the arrest was twenty days before the beginning of the Parliament, and the Creditors did not know what should be taken for a Reasonable time.

24 *April*

24. *April*, 1640. It was this day [illegible] in the House, and not contradicted, That every Member of the House hath Priviledge for Sixteen days *exclusive*, and Fifteen days *inclusive*, before and after every Parliament.

The like mention is made in several Parliaments, by Members in Debate.

How Obtained.

For the manner of Obtaining this Priviledge, 22. *March* 18 *Jac.* It was resolved, That no protection under any mans Hand of this House is good.

22. *Febr.* 6. *Edw.* 6. It is Ordered, If any Burgess require Priviledge for himself or his servant, upon declaration thereof to the Speaker, he should have a Warrant signed by Mr. Speaker to obtain the Writ.

22. *Febr.* 18 *Eliz. Aug.* 1575. A report was made by the Attorney of the Dutchy from a Committee, for delivery of *Smaley* a servant to *Arthur Hall*, before mentioned, That they found no Precedent, for setting at large by the Mace any person in arrest, but onely by Writ. And that by divers Precedents of Record

perused

perused by them, it appears, That every Knight, Citizen, or Burgeſs of this Houſe, which doth require Priviledge, hath uſed in that caſe to take a Corporal Oath before the Lord Chancellor or Lord Keeper, That the party for whom ſuch Writ is prayed, came up with him, and was his Servant at the time of the arreſt made. But on the 27. *Febr.* after ſundry Reaſons, Arguments, and Diſputations in the Houſe, It was reſolved, That the ſaid *Smaley* ſhould be brought the next day to the Bar by the Serjeant, and ſo ſet at Liberty by warrant of the Mace, and not by Writ.

According to which Reſolution, the next day *Smaley* was brought to the Bar in the Houſe by the Serjeant, accompanied with two Serjeants of *London*, and was preſently delivered from his Impriſonment and Execution, according to the former Judgment of this Houſe, and the ſaid Serjeants diſcharged of their ſaid priſoner.

2. *March*, 1592. Upon a report from the Committee of Priviledges and Elections, That one Mr. *Fitzherbert* was returned a Burgeſs, and excepted againſt, becauſe he was alledged to be out-lawed, and

and detained upon such Outlawry: the House Ordered, That Mr. Speaker should move the Lord Keeper for an *Habeas corpus cum causa*, to bring up the Body and Cause of Mr. *Fitzherbert*.

But the next day Sir *Henry Knivet* entring into a Discourse, touching the Priviledges of the House of ancient times, used and accustomed for the conventing of any persons into this Court, declared his opinion, That Mr. *Fitzherbert* was rather to be called to appear in this House, by the Serjeants Mace of this House, then any Writ of the Chancery, and quoted a Case of *George Ferrers*; but was put in remembrance by Mr. Speaker, that the manner for bringing Mr. *Fitzherbert* had received the Order of the House yesterday, and was therefore now, neither to be recalled, nor further treated of by this House, till the Appearance of the said Mr. *Fitzherbert* be first made in this House, according to the said former Order for the same.

On the 7th of the same Month, The House being acquainted by Sir *Edward Hobby*, that the Lord Keeper having been moved for a Writ of *Habeas corpus cum causa*, for Mr. *Fitzherbert*, his Lordship thought

hought it beſt, in regard of the ancient iberties and Priviledges of this Houſe, That the Serjeant at Arms be ſent, by Order of this Houſe, for the ſaid Mr. *Fitz-erbert*, at his own charge; by reaſon hereof he may be brought hither to the Houſe, without peril of further being ar-eſted by the way: which was alſo ap-roved of.

Injuries offered to the Members and heir Servants, during the Seſſion, have een uſually puniſhed by the Houſe, upon omplaint.

29 *Febr.* 1575. One *VVilliams*, for aſ-aulting a Burgeſs of this Houſe, was up-n complaint ſent for by the Serjeant, nd brought to the Bar, and committed o the Serjeants Ward.

23 *April* 1 *Mariæ*, One *Monington*, or ſtriking *William Johnſon* a Burgeſs, was ent for, and confeſſing it, was committed o the Tower.

28 *Nov.* 1601. Complaint being made y Mr. *Fleetwood* a Member of the Houſe, That one *Holland* a Scrivener, and one *Brooks* his ſervant, had evil intreated and beaten the ſervant of the ſaid Mr. *Fleet-wood* in his preſence; they were both ſent for

for by the Serjeant, and brought to the Bar; and for the said Offence committed for five days to the Serjeant.

12 *Febr.* 18. *Jacobi*, Mr. *Lovell*, a Member of the House, informed, that one *Daryell* threatned his person, That for a Speech spoken by him in the House, he should be sent to the Tower during the Parliament, or presently after: *Daryell* was sent for by the Serjeant, to answer it to the House; and upon testimony of it he was committed to the Serjeant till Thursday following, and then to acknowledge his fault, or to be committed to the Tower.

16. *June* 1604. Complaint being made of one *Tho. Rogers*, a Currier dwelling in *Cole-man-street*, for abusing Sir *John Sa.* in slanderous and unseemly terms, touching his proceedings, at a Committee in the House touching Tanners, &c. he was sent for by the Serjeant at Arms to the Bar, to answer his offence.

CHA

CHAP. XVI.

Amendment of Returns.

18 *Iacobi*, The Sheriff of *Leicester-shire* having returned Sir *Thomas Beaumont*; upon Report from the Committee for Elections, That Sir *George Hastings* was duely chosen, the Sheriff was ordered to return Sir *George Hastings* to the Clerk of the Crown, and he to accept it, and file it.

21 *Jacobi*, Upon Report from the Committee of Priviledges, That in the Election of Mr. *John Maynard* for *Chippingham*; Mr. *John Maynard* was chosen, but by a mistake, *Charles* was afterward written in stead of *John*: It was resolved, The Return should be amended without a new Writ; and the Question being, who should amend it: Resolved, The Bayliff should do it, and not the Clerk of the Crown; and that it should be sent down to the Bayliff in the Countrey, and he to return *John Maynard* Esq; the first Burgess.

1 *Febr.* 1640. It being Resolved, That the Election of Mr. *Erle* for one of the Burgesses

Burgeſſes of *Wareham*, is a good Election. It was Ordered, That the Officer, that was the Officer when the Return was made or his Deputy, or the Electors, ſhould amend the Return. But the next day it was Ordered, That *Edward Harbin*, the late Mayor of *Wareham*'s Duputy, ſhould come to the Bar of the Houſe, and amend the Return.

20 *Febr.* 1640. The Bayliff of *Midhurſt* in *Suſſex* came to the Bar, (being ſent for by Order of the Houſe) and amended one of the Indentures of Returns of Burgeſſes for that Town, and the other was taken off the File.

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Arcana Parliamentaria:

OR

PRECEDENTS

CONCERNING

Elections, Proceedings, Privileges, and Punishments in

PARLIAMENT.

Faithfully collected out of the *Common* and *Statute-Law* of this Realm.

With particular Quotations of the Authors in each Case.

By R. C. *of the Middle Temple*, Esq;

To which is added,

The Authority, Form, and Manner of Holding Parliaments.

By the Learned Sir Tho. Smith, *Doctor of Laws.*

London, Printed for *M. Gilliflower*, at the *Spread Eagle* and *Crown* in *West-minster-Hall.* 1685.

The Authority, Form, and Manner of holding Parliaments.

THE moſt high and abſolute Power of the Realm of *England* conſiſteth in the Parliament. For, as in War, where the King himſelf in Perſon, the Nobility, the reſt of the Gentility, and the Yeomanry are, is the Force and Power of *England*; So in Peace and Conſultation, where the Prince is to give Life, and the laſt and higheſt Commandment; the Barony or Nobility for the higher, the Knights, Eſquires, Gentlemen and Commons for the lower part of the Common-wealth; the Biſhops for the Clergy, be preſent to advertiſe, conſult, and ſhew what is good and neceſſary for the Common-wealth, and to conſult together; and upon mature deliberation, every Bill or Law being thrice read and

disputed upon in either House, the other two Parts, first each apart, and after the Prince himself, in presence of both the Parties, doth consent unto and alloweth. That is the Princes and whole Realms Deed; whereupon justly no man can complain, but must accommodate himself to find it good, and obey it.

That which is done by this Consent is called firm, stable and *sanctum*, and is taken for Law. The Parliament abrogateth old Laws, maketh new, giveth order for things past, and for things hereafter to be followed, changeth Right and Possessions of private men, legitimateth Bastards, establisheth Forms of Religion, altereth Weights and Measures, defineth of doubtful Rights, whereof is no Law already made, do appoint Subsidies, Tales, Taxes, and Impositions, giveth most free Pardons and Absolutions, restoreth in Blood and Name: as the highest Court, condemneth or absolveth them whom the Prince will put to Tryal: And to be short, all that ever the People of *Rome* might do, either *Centuriatis Comitiis*, or *Tributis*, the same may be done by the Parliament of *England*, which representeth, and hath the Power of the whole Realm,

Realm, both the Head and Body. For every Englisſh-man is intended to be there preſent, either in Perſon, or by Procuration and Attorney, of what Prehemineence, State, Dignity, or Quality ſoever he be, from the Prince, (be it King or Queen) to the loweſt Perſon of *England*. And the Conſent of the Parliament is taken to be every man's Conſent.

The Judges in Parliament are, the the King or Queen's Majeſty, the Lords Temporal and Spiritual, the Commons, repreſented by the Knights and Burgeſſes of every Shire and Burrough Town: Theſe all, or the greater part of them, and that with the conſent of the Prince for the time being, muſt agree to the making of Laws.

The Officers in Parliament are the Speakers, two Clerks, the one for the Higher Houſe, the other for the Lower, and Committees.

The Speaker is he that doth commend and prefer the Bills exhibited into the Parliament, and is the Mouth of the Parliament. He is commonly appointed by the King or Queen, though accepted by the Aſſent of the Houſe.

The Clerks are the Keepers of the Parliament-Rolls and Records, and of the Statutes made, and have the cuſtody of the private Statutes not printed.

The Committees are ſuch as either the Lords in the higher Houſe, or Burgeſſes in the lower Houſe, do chooſe, to frame the Laws upon ſuch Bills as are agreed upon, and afterward to be ratified by the ſame Houſes.

The Form of holding the Parliament.

THE Prince ſendeth forth his Writs to every Duke, Marqueſs, Baron, and every other Lord Temporal or Spiritual, who hath Voice in the Parliament, to be at his great Counſel of Parliament ſuch a day; (the ſpace from the date of the Writ is commonly at the leaſt forty days.) He ſendeth alſo Writs to the Sheriffs of every Shire, to admoniſh the whole Shire to chooſe two Knights of the Parliament in the name of the Shire, to hear, and reaſon, and to give their Advice and Conſent in the name of the Shire; and to be preſent at that day: likewiſe to every City and Town, which of ancient time hath been wont to find Burgeſſes of the Par-

Parliament, so to make Election, that they might be present there at the first day of the Parliament. The Knights of the Shire be chosen by all the Gentlemen and Yeomen of the Shire, present at the day assign'd for the Election.: the voice of any absent can be counted for none. Yeomen I call here (as before) that may dispend at the least forty shillings of yearly Rent of free Land of his own.

The Writ of Parliament for the Lords.

JAcobus Secundus, &c. *Charissimo consanguineo suo Edwardo Comit' Oxon' salutem. Quia de advisamento & assensu consilii nostri pro quibusdam arduis urgentibus negotiis nos, statum & defensionem Regni nostri Angliæ & Ecclesiæ Anglicanæ concernent' quoddam Parliamentum nostrum apud Civitatem nostram Westmonasterium decimonono die —— prox' futur' tener' ordinavimus, & ibid' vobiscum ac cum Prelat', Magnatibus & Proceribus dict' Regni nostri colloquium habere & tractare, vobis sub fide & ligeanciis quibus nobis tenemini firmiter injungend' mandamus, quod considerat' dictorum negotiorum arduitate & periculis imminentibus, cessante excusatione quacunque dict' die & loco personaliter interfitis nobis-*

cum ac cum Prelatis, magnatibus & Proceribus prædictis, super dictis negotiis tractatur' ueſtrumque conſilium impenſur' & hoc ſicut nos & honorem noſtrum ac ſalvationem & defenſionem Regni & Eccleſiæ prædictorum expeditionemque dictorum negotiorum diligitis nullatenus omittatis. Teſte meipſo apud Weſtm' decimo die —— anno Regni noſtri ——.

The Writ of Parliament for the Knights.

REX *Vic' N. &c. ſalut. quia de adviſamento & aſſenſu Conſilii noſtri pro quibuſdam arduis & urgentibus negotiis, nos, ſtatum, & defenſionem Regni noſtri Angliæ, & Eccleſiæ Anglicanæ, concernen' quoddam Parliamentum noſtrum apud Civitatem noſtram Weſtm' duodecimo die —— prox' futur' teneri ordinavimus, & ibid' cum Prelatis Magnatibus & Proceribus dicti Regni noſtri colloquium habere & tract: Tibi præcipimus firmiter injungentes quod facta proclamac' in prox' comitat' tuo poſt receptionem hujus brevis noſtri tenend' die & loco prædict' duos milit' gladiis cinct' magis idoneos & diſcretos comit' prædicti, & de qualib' civitate com' illius duos cives, & de qualibet Burgo duos Burgenſes de diſcretior'*

&

& magis sufficientibus libere & indifferenter per illos qui procla' hujusmodi interfuer' juxta formam Statutorum inde edit' & provis' eligi, & nomina eorundum milit', civium & Burgensium, sic electorum in quibusdam indentur' inter te & illos qui hujusmodi election' interfuerit, inde conficiend' sive hujusmodi electi præsentes fuerint vel absentes, inseri: eosque ad dict' diem & locum venire fac'. Ita quod iidem Milites plenam & sufficientem potestatem pro se & communitate comit' prædicti ac dict' Cives & Burgenses pro se et communitat' Civitatum et Burgorum prædictorum divisim ab ipsis habeant, ad faciendum et consentiendum his quæ tunc ibid' de communi consilio dicti Reg' nostri (favente Deo) contigerint ordinari super negotiis ante dictis: Ita quod pro defectu potestatis hujusmodi, seu propter improvidam electionem milit' Civium aut Burgensium prædictorum, dicta negotia infecta non remaneant quovis modo. Nolumus autem quod tu nec aliquis alius vic' dicti Reg' nostri aliqualiter sit electus. Et electionem illam in pleno comitatu factam, distincte & aperte sub sigillo tuo & sigillis eorum qui electioni illi interfuerint, nobis in Cancellar nostram ad dict' diem & locum certifices indilate, remittens nobis alteram par-

tem

tem indenturarum prædictarum præsentibus consut' una cum hoc breve. Teste meipso apud Westmonasterium decimo octavo die ——— *Anno Regni nostri* ———

The Return of the Sheriff upon this Writ.

VIrtute istius brevis eligi feci duos milit' gladiis cinctos magis idoneos & discretos de comitat' meo, viz. W. F. & V. S. qui plenam & sufficientem potestatem pro se & communitate comitat' predicti habeant, ad faciendum & consentiendum iis quæ ad diem & locum infra contentos de communi consilio regni Angliæ ordinari contigerint: & prædicti W. F. & V. S. manucapti sunt per I. P. V. B. I. D. & R. N. ad essendum ad Parliamentum domini Regis apud Westmonast. ad diem infra contentum ad faciendum quod hoc breve in se exigit & requirit. *Li. Int.* 595.

Feci etiam præceptum virtute hujus brevis I. B. & A. S. Ballivis libertatis villæ de G. in comitat' meo, quod de eodem Burgo eligi facerent duos Burgenses de discretioribus & magis sufficient' quod sint ad Parliamentum dicti domini Regis

gis ad diem & locum infra cont', ad faciendum & consentiendum ut prædictum est, qui quidem Ballivi sic mihi respondent, qd' eligi fecerunt de prædicto Burgo de G. duos Burg. discretos & magis sufficient', ad essend' ad Parliamentum prædictum: viz. R. P. & G. I. ad faciendum & consentiendum ut supradictum est. Virtute etiam istius brevis ad proximum Comitat' meum post receptionem ejusdem, tentum apud V. tali die & anno in pleno comitatu illo proclamari feci omnia in isto brevi contenta, secundum formam & effectum hujus brevis, prout hoc breve in se exigit & requirit.

Residuum vero executionis istius brevis patet in quibusdam Indent' huic brevi consut. *Li. Intr'* 595.

The Indenture between the Sheriff and Burgesses.

HÆC Indentura facta tali die & anno inter G. A. armig' vic' comitatus N. ex una parte, & I. B. & I. D. &c. ex altera parte, testatur, quod secundum formam brevis huic Indent' consut', fact', proclam' in pleno comitatu meo tento apud G. tali die & an. prædicti I. B. I. D. & alii

alii qui Procl' predict' in pleno comitat' predict' interfuerunt, secundum formam statutorum in brevi predicto specificatorum & secundum exigen' brevis illius eligerunt W. F. & V. S. milites, Gladiis cinctos pro comitatu predicto, ad essendum ad parliamentum in eodem brevi specific' qui plenam & sufficientem potestatem pro se & communitate comitatus predicti habeant, ad faciendum & consentiendum prout breve illud in se exigit & requirit. In cujus rei testimonium partes predict' his indenturis sigilla sua alternatim apposuer'. Datum tali die & an. *Plo.* 120.

G. A. armig. vic'

These meeting at one day, the two who have the most of their voices, be chosen Knights of the Shire for that Parliament: likewise by the plurality of the Voices of the Citizens and Burgesses, be the Burgesses elected. The first day of the Parliament, the Prince and all the Lords in their Robes of Parliament do meet in the higher House, where, after Prayers made, they that be present are written, and they that be absent, upon sickness, or some other reasonable cause (which the Prince will allow) do consti-

tute

tute under their hand and Seal, some one of those who be present, as their Proxy or Atturney, to give Voice for them, so that by presence, or Atturney, and Proxy they be all there, all the Princes and Barons, and all Arch-Bishops and Bishops, and (when Abbots were) so many Abbots as had Voice in Parliament. The place, where the assembly is, is richly tapessed and hanged, a Princely and Royal Throne, as appertaineth to a King, set in the midst of the higher place thereof. Next under the Prince sitteth the Chancellour, who is the Voyce and Oratour of the Prince. On the one side of that House or Chamber, sitteth the Arch-bishops and Bishops, each in his rank, on the other side the Dukes and Barons.

In the midst thereof, upon Wool-sacks, sitteth the Judges of the Realm, the Master of the Rolls, and the Secretaries of Estate: But these that sit on the Wool-sacks have no Voyce in the House, but only sit there to answer their knowledge in the Law, when they be asked, if any doubt arise among the Lords. The Secretaries do answer of such Letters or things passed in Council, whereof they have

have the cuſtody or knowledge; and this is called the Upper Houſe, whoſe Conſent and Diſſent, is given by each man ſeverally, and by himſelf; firſt, for himſelf, and then ſeverally, for ſo many as he hath Letters and Proxies, when it cometh to the queſtion, ſaying only, Content, or not content, without farther reaſoning or replying. In the mean time, the Knights of the Shires, and Burgeſſes of Parliament (for ſo they are called that have Voice in Parliament, and are choſen (as I have ſaid before) to the number of about five hundred and ten) are called by ſuch as it pleaſeth the Prince to appoint, into another great Houſe or Chamber, by name, to which they anſwer, and declaring for what Town or Shire they anſwer: then they are willed to chooſe an able and diſcreet man, to be as it were the Mouth of them all, and to ſpeak for, and in the name of them, and to preſent him ſo choſen by them to the Prince: which done, they coming all with him to a Barr, which is at the nether end of the upper Houſe, there he firſt praiſeth the Prince, then maketh his excuſe of Inability, and prayeth the Prince that he would command the Commons to chooſe another.

ther. The Chancellour, in the Prince's name, doth so much declare him able, as he did declare himself unable, and thanketh the Commons for chusing so Wise, Discreet, and Eloquent a man, and willeth them to go and consult of Laws for the Common-wealth. Then the Speaker maketh certain Requests to the Prince in the Commons Name, First, that his Majesty would be content that they may use and enjoy all their Liberties and Priviledges that the Commons House was wont to enjoy.

Secondly, That they may frankly and freely say their minds, in disputing of such Matters as may come in question, and that without offence to His Majesty.

Thirdly, If any should chance, of that Lower House, to offend, or not to do or say as should become him, or if any should offend any of them, being called to that his Highness Court, that they themselves might (according to the ancient custom) have the punishment of them.

Fourthly, That if there come any doubt, whereupon they shall desire to have the Advice of, or Conference with his Majesty, or with any of the Lords, they might do it; All which he promiseth

ſeth in the Commons names, that they ſhall not abuſe, but have ſuch regard as moſt faithful, true, and loving Subjects ought to have to their Prince.

The Chancellour anſwereth in the Prince's name, as appertaineth. And this is all that is done for one day, and ſometime for two. Beſides the Chancellour there is one in the upper Houſe, who is called Clerk of the Parliament, who readeth the Bills. For all that cometh in conſultation either in the upper Houſe or in the nether Houſe, is put in writing firſt in Papet, which being once read, he that will, riſeth up and ſpeaketh for it or againſt it: and ſo one after another, ſo long as they ſhall think good. That done they go to another, and ſo another Bill. After it hath been once or twice read and doth appear that it is ſomewhat like as reaſonable, with ſuch amendment in Words, and peradventure ſome Sentences, as by diſputation ſeemeth to be amended: in the upper Houſe the Chancellour asketh, if they will have it ingroſs'd, that is to ſay, put into Parchment: which done, and read the third time, and then eft-ſoons, if any be diſpoſed to object or diſpute again among them, the Chancellour

our asketh, if they will go to the queſtion; and if they agree to go to the queſtion, then he ſaith, Here is ſuch a Law or Act concerning ſuch a matter, which hath been thrice read here in this Houſe, are ye content that it be enacted or no? If the Not-contents be moſt, then the Bill is daſhed, that is to ſay, the Law is annihilated, and goeth no farther. If the Contents be the moſt, then the Clerk writeth underneath; *Soit baile aux communes.*

And ſo when they ſee time, they ſend ſuch Bills as they have approved, by ten or three of thoſe which do ſit on the Wool-ſacks to the Commons: who, asking Licence, and coming into the Houſe, with due reverence ſaith to the Speaker: Maiſter Speaker, my Lords of the upper Houſe have paſſed among them, and think good, that there ſhould be enacted by Parliament ſuch an Act, and ſuch an Act, and ſo readeth the Titles of that Act or Acts. They pray you to conſider of them, and ſhew them your advice; which done, they go their way. They being gon, and the door again ſhut, the Speaker rehearſeth to the Houſe what they ſaid. And if they be not buſie diſputing

puting at that time another Bill, he asketh them straightway if they will have that Bill, or (if there be more) one of them.

In like manner in the lower House, the Speaker, sitting in a Seat, or Chair for that purpose, somewhat higher, that he may see and be seen of them all, hath before him, in a lower Seat, his Clerk, who readeth such Bills as be first propounded in the lower House, or be sent down from the Lords. For in that point each House hath equal Authority, to propound what they think meet, either for the abrogating of some Law made before, or for making of a new. All Bills be thrice in three divers days read and disputed upon, before they come to the question. In the disputing is a marvellous good order used in the lower House. He that standeth up bare-headed, is to be understood, that he will speak to the Bill. If more stand up, who that is first judged to arise, is first heard; though the one do praise the Law, the other dissuade it, yet there is no passionate reasonings. For every man speaketh as to the Speaker, not as one to another, for that is against the Order of the House. It is

is also taken against the Order, to name him whom ye do confute, but by circumlocution, as he that speaketh with the Bill, or he that spake against the Bill, and gave this and this reason. And so with perpetual Oration, not with intrenching discourse, he goeth through till he have made an end. He that once hath spoken in a Bill, though he be confuted straight, that day may not reply, no, though he would change his Opinion. So that to one Bill in one day, one may not in that House speak twice, or else one or two with cross disputation would spend all the time. The next day he may, but then also but once.

No reviling or nipping words must be used. For then all the House will cry, it is against the Order: and if any speak unreverently or seditiously against the Prince, or the Privy-Council, I have seen them not only interrupted, but it hath been moved after to the House, and they have sent them to the Tower. So that in such a multitude, and in such diversity of Minds and Opinions, there is the greatest Modesty and Temperance of Speech that can be used. Nevertheless, with very mild and gentle Terms, they

make

make their reasons as violent, and as vehement the one against the other as they may ordinarily, except it be for urgent causes, and hasting of time. At the afternoon they keep no Parliament. The Speaker hath no voice in the House, nor they will not suffer him to speak in any Bill to move or dissuade it. But when any Bill is read, the Speakers Office is, briefly and as plainly as he may, to declare the Effect thereof to the House. If the Commons do assent to such Bills as be sent to them first agreed upon from the Lords, thus subscribed, *Les Communs ont assentus*, so if the Lords do agree to such Bills as be first agreed upon by the Commons, they send them down to the Speaker thus subscribed, *Les Seigneurs ont assentus*. If they cannot agree, the two Houses (for every Bill from whencesoever it doth come, is thrice read in each of the Houses) if it be understood that there is any sticking, sometimes the Lords to the Commons, sometimes the Commons to the Lords, do require that certain of each House may meet together, and so each part to be informed of other's meaning, and this is always granted. After which meeting, for the most part

not always, either part agrees to others Bills.

In the upper Houſe they give their aſſent and diſſent, each man ſeverally, and by himſelf, firſt, for himſelf, and then for ſo many as he hath Proxy. When the Chancellour hath demanded of them, whether they will go to the queſtion, after the Bill hath been thrice read, they ſaying only, Content or not content, without further reaſoning or replying: and as the greater number doth agree, ſo it is agreed on, or daſhed.

In the lower Houſe, none of them that is elected, either Knight or Burgeſs, can give his Voice to another, nor his conſent or diſſent by Proxy. The major part of them that be preſent only maketh the conſent or diſſent. After the Bill hath been twice read, and then ingroſſed, and eſt-ſoons read and diſputed on enough as is thought, the Speaker asketh, if they will go to the queſtion? and if they agree, he holdeth the Bill up in his hand and ſaith: As many as will have this Bill go forward, which is concerning ſuch a matter, ſay yea. Then they which allow the Bill, cry Yea, and as many as will not, ſay No; as the cry of the yea or no is bigger,

bigger, ſo the Bill is allowed or daſhed. If it be a doubt which cry is bigger, they divide the Houſe, the Speaker ſaying, as many as do allow the Bill go down with the Bill, and as many as do not, ſit ſtill. So they divide themſelves, and being ſo divided they are numbred who made the major part, and ſo the Bill doth paſs. It chanceth ſometime that ſome part of the Bill is allowed, ſome other part hath much controverſie and doubt made of it: and it is thought if it were amended it would go forward. Then they chooſe certain *Committees* of them who have ſpoken for the Bill and againſt it, to amend it, and bring it again ſo amended as they amongſt them ſhall think meet: and this is before it is ingroſſed, yea, and ſometime after. But the agreement of theſe *Committees* is no prejudice to the Houſe. For at the laſt queſtion they will either accept it or daſh it, as it ſhall ſeem good, notwithſtanding that whatſoever the *Committees* have done.

Thus no Bill is an Act of Parliament, Ordinance, or Edict of Law, untill both the Houſes ſeverally have agreed unto it after the order aforeſaid; no nor then neither. But the laſt day of that Parlia-

ment

ment or Seſſion, the Prince cometh in Perſon in his Parliament Robes, and ſitteth in his ſtate: all the upper Houſe ſitteth about the Prince in their ſtates and order, in their Robes. The Speaker, with all the Common Houſe, cometh to the Bar, and there, after thankſgiving firſt in the Lords Name by the Chancellour, *&c.* and in the Commons Name by the Speaker to the Prince, for that he hath ſo great care of the good Government of his People, and for calling them together to adviſe of ſuch things as ſhould be for the Reformation, Eſtabliſhing, and Ornament of the Common-wealth: the Chancellour, in the Prince's Name, giveth thanks to the Lords and Commons for their pains and travels taken, which, he ſaith, the Prince will remember and recompence when time and occaſion ſhall ſerve, and that he for his part is ready to declare his Pleaſure concerning their Proceedings, whereby the ſame may have perfect Life and Accompliſhment by his Princely Authority, and ſo have the whole Conſent of the Realm. Then one reads the Titles of every Act which hath paſſed at that Seſſion, but only in this faſhion: An Act concerning ſuch a

thing, &c. It is marked there what the Prince doth allow, and to such he saith, *Le Roy*, or *la Royne le veult*. And those be taken now as perfect Laws and Ordinances of the Realm of *England*, and none other, and, as soon as may be, put in print, except it be some private Case, or Law, made for the benefit or prejudice of some private man, which the *Romans* were wont to call *Privilegia*. These be only exemplified under the Seal of the Parliament, and for the most part not printed. To those which the Prince liketh not, he answereth, *Le Roy*, or *la Rayne sadviſera*, and those be accounted utterly dashed, and of none effect.

This is the order and form of the highest and most authentical Court of *England*, by vertue whereof all those things be established whereof I spake before, and no other means accounted available to make any new forfeiture of Life, Member, or Lands of any *English* man, where there was no Law ordained for it before.

Note, Where the Parliament Writ speaks *de qualibet Civitate Comitatus illius*, this is intended, where the City is not a County

County in it ſelf, *&c.* For if it be a County of it ſelf, as *London*, *Norwich*, and ſuch like, then the Writ ſhall be directed to them, *&c.* As it is to Sheriffs of other Counties.

At the next County meeting to be holden after the delivery of the Parliament Writ to the Sheriff, Proclamation ſhall be made in the full County, of the day, and place of the Parliament, and every one ſhall attend for the Election of the Knights for the ſame County for the Parliament, which Knights ought to be reſident within the ſame County where they are choſen; the day of the date of the Writ of Summons to the Parliament. And they ſhall be choſen by People dwelling and reſident within the ſame County, whereof every one of them ſhall have Land, or Tenement, to the value of forty Shillings, above all charges, within the ſame County; And ſuch as have the greateſt number of Voices of ſuch Chuſers, ſhall be returned by the Sheriffs, Knights for the ſame County. 7 *H.* 4. *c.* 15. 1 *H. c.* 1. 8 *H.* 6. *c.* 7. 10 *H.* 6. *c.* 2.

The Sheriff may examine every Chuſer upon the Evangeliſts, how much he

may expend by the year, if he be in doubt of the value, 8 *H.* 6 *c.* 7.

The ſaid Election ſhall be made in full County, between the Hour of 8, and the Hour of 9 in the Forenoon. 13 *H.* 6. *c.* 15.

The Knights ſhall be return'd into *Chancery*, by Indenture ſealed betwixt the Sheriff and the Chooſers of Knights for the Parliament. 8 *H* 6. *c.* 7. 7 *H.* 4 *c.* 1. 23 *H.* 6. *c.* 15. As it appears by the Writ aboveſaid.

Every Sheriff that makes not a good, and true Return of ſuch Election of Knights to come to Parliament, according to the Statutes of *H.* 5. and *H.* 6. ſhall forfeit 100 *l.* to the King, and 100 *l.* to the Knight ſo choſen, that ſhall commence his Action within three Months after the Parliament begun, and proceed in the ſame Suit effectually without Fraud. And if he ſo do not, another that will ſue ſhall have the ſaid Action, for the ſaid 100 *l.* with coſts, as the Knight ſhould have had, 23 *H.* 6. *c.* 15. A Sheriff ſhall not be choſen for Knight, nor Burgeſs of Parliament, *L. Int.* 411. as appears alſo by the Writ it ſelf directed to the Sheriff.

In every Writ of Parliament directed to the Sheriff, this Clauſe muſt be put in-

in. *Electionem tuam in pleno comitatu tuo factam distincte et aperte sub sigillo tuo et sigil' eorum qui electioni illi interfuerunt nobis in Cancellariam nostram ad diem et locum in breve content' certifices indilate*, 7 *H.* 4. *c.* 15.

The Election must be by the greater number of Free-holders; And, in an Action of Debt for him that is chosen Knight of the County, and not return'd, it sufficeth to declare, that he was chosen by the major part of the Free-holders, &c. *Plowd. Com.* 118. *Dyer* 113.

Note, If a man keeps a Household in one County, and remains in service with another Family in another County, yet he may be at chusing of Knights of the Shire, where he keeps a Family; for he shall be said in Law to be resident in either of the said Counties; as in Debt, he may be impleaded where he keeps his House-hold, *ut supra*, and be resident in the other County by reason of the Arrest. *Vide* 19 *H.* 6. *fol.* 1.

And the Statute of 10 *H.* 6. *c.* 2. is, that Knights of the Shire shall be chosen by Free-holders that are resident within the same County.

The Sheriff, after the receipt of the Writ, &c. as aforesaid, shall deliver without fraud a sufficient Precept under his Seal to every Mayor, and Bayliff (either Bayliffs, or Bayliff, where there is no Mayor of the Cities and Burroughs within his County) reciting in it the Precept of the Parliament Writ; commanding them by the said Precept, if it be a City, to choose Citizens for the same City by Citizens, &c. If it be a *Borough*, then Burgesses by Burgesses thereof, to come to the Parliament; and that the Mayor, and Bayliffs (or Bayliffs or Bayliff, where there is no Mayor) shall duly return the said Precept to the Sheriff by Indenture betwixt the Sheriff and those of the Election; and the names of the Citizens, and Burgesses by them so chosen. 23 *H.* 6. *c.* 15.

The Sheriff shall make a good return of such Writ, and of every return by the Mayors, and Bayliffs (or Bayliffs or Bayliff, where there is no Mayor) to him made. And if the Sheriff does contrary to this Statue, or any other Statute for choosing of Knights, Citizens, and Burgesses to come to Parliament, he shall incur the Penalty of 100*l.* to the King, and

shall

ſhall be impriſoned for one year without Bail or Mainpriſe; and the Knights for the County, returned contrary to the ſaid Ordinances, ſhall loſe their Wages, by 8 *H. 6. c. 7.* and the Sheriff ſhall forfeit 100 *l.* to every Knight, Citizen, or Burgeſs in his County, choſen to come to Parliament, not duly returned; or to any other, that in their default will ſue for it by action of Debt, with coſts expended in it, in which the Defendant ſhall not wage his Law, nor have any Eſſoin. 23 *H. 6. c.* 15.

If the Mayor, and Bailiffs, or Bailiffs or Bailiff, where no Mayor is, ſhall return other than thoſe which be choſen by the Citizens, and Burgeſſes of the Cities or Boroughs where ſuch Elections be; ſhall incur, and forfeit to the King forty pound, and moreover, ſhall forfeit to every Perſon hereafter choſen, Citizen, or Burgeſs, to come to Parliament, and not by the ſame Mayor, and Bailiffs, or Bailiffs or Bayliff, where no Mayor is, returned; or to any other Perſon, which in default of ſuch Citizen or Burgeſs ſo choſen will ſue for it, ſhall have his Action of Debt for forty pound, with his Coſts in this caſe expended; in

which the Defendant ſhall not wage his Law, nor have any Eſſoin. *Ibid.*

Every Knight, Citizen, and Burgeſs, choſen and not return'd, ſhall bring his Action of Debt within three Months after the ſame Parliament commenced, to proceed in the ſame Suit effectually without Fraud; And if he ſo do not, another that will ſue ſhall have the ſame Action for the ſaid Forfeitures, and Coſts in ſuch caſe expended, wherein the Defendant ſhall not wage his Law, nor be eſſoined: *Ibid.*

If any Knight, Citizen, or Burgeſs, that ſhall be returned by the Sheriff to come to Parliament, after ſuch return, be put out by any Perſon, and another put in the Place of him which is out, if he take upon him to be Knight, Citizen, or Burgeſs, ſhall forfeit to the King an hundred pound, and ſo much to the Knight, Citizen or Burgeſs, ſo return'd by the Sheriff; and after, as aforeſaid, put out. And that Knight, Citizen, or Burgeſs, which is ſo put out, ſhall have an Action of Debt againſt him ſo put in his place, his Executors, or Adminiſtrators; provided always that he ſhall begin his Suit within three Months after the Parliament

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commenced. And if he do not, then he that will ſue, ſhall have an action of Debt of the ſame one hundred pound againſt him which is put in the place of him that is ſo put out, after ſuch return, *&c.* And that no Defendant in ſuch Action ſhall wage his Law, nor be eſſoin'd; ſo that the Knights of the Shire for the Parliament hereafter to be choſen, ſhall be Knights, or otherwiſe ſuch eminent Eſquires, or Gentlemen of the ſame Counties, as ſhall be able to be Knights, and no man to be ſuch Knight, which ſtandeth in the degree of a Yeoman, and under, 23 *H. 6. c.* 15.

All Perſons, and Communalties, which ſhall have the Summons of the Parliament, ſhall come to the Parliament in the manner as they are bounden to do, and have been accuſtomed of ancient times. And he that does not come (except he may reaſonably, and honeſtly excuſe himſelf) ſhall be amerced or otherwiſe puniſhed, according as of old times hath beeen uſed. 5 *R.* 2. *Stat.* 2. *c.* 4.

No Baron, Knight, Citizen, or Burgeſs, which ſhall be elected to come to Parliament, ſhall depart from it till the Parliament be fully ended, or prorogued,

except he has Licenſe of the Speaker, and Commons in ſuch Parliament aſſembled: which Licenſe ſhall be entred in the Book of the Clerk of the Parliament; appointed for the Commons Houſe, upon pain to loſe their Wages, and all Counties, Cities, and Boroughs ſhall be diſcharg'd of the ſaid Wages. 6 *H.* 8. *c.* 16. *Vide Stamford*, 153. The Biſhop of *Wincheſter* was arreſted in the Kings Bench for that he coming to Parliament, departed without Licenſe. *Coron. E.* 161. 3 *Ed.* 2.

The Lands, which were wont to be contributory to the Expences of Knights of Parliament, ſhall be liable to thoſe charges, notwithſtanding the purchaſe of them by any Lord, or any other Perſon whatſoever. 12 *R.* 2. *c.* 12.

The Sheriff, after the Receipt of the Writ for levying the Wages of the Knights of the Parliament, at the next County Court, ſhall make Proclamation that the Coroners, and every chief Conſtable of the ſame County, and the Bayliffs of every Hundred or Wapentake of the ſame County, and every other, which will be at the aſſeſſing of the Wages of the Knights of the Shires, ſhall be at the next County to aſſeſs the ſaid Wages;

and

and that the Sheriff, under Sheriff, Coroner, or Bayliff, for the time being, be there in their proper Person, upon pain of forfeiture to the King forty Shillings, of every of them that maketh default. 23 *H. 6. c. 11.*

At which time the Sheriff, or under-Sheriff, in the presence of them that shall come to the same, and of the Suitors of the same County, then being there in full County, well and duly shall assess every Hundred to that assessable, by it self, to pay a certain Sum for the Wages of the Knights of the Shire; so that the whole Sum of all the Hundreds do not exceed the Sum which shall be due to the said Knights. And after that, in the same County, they shall assess well and lawfully every Village within the same Hundreds, which should be there assessable to a certain Sum for the payment of the said Wages; so that the whole Sum of all the Towns within any of the said Hundreds, do not exceed the Sum assessed upon the Hundred of which they be *levidem.*

And that the said Sheriff, under-Sheriff, Bayliffs, nor any other Officer, for the Cause aforesaid, shall levy more

Money

Money of any Village than that whereunto they were assessed. And if any do assess any Hundred, or Village, otherwise than is aforesaid, he shall forfeit for every default to the King, twenty pound, and to any man which will sue in this case, ten pound. *Ibidem.*

And that the Sheriff well and duly shall levy the Money so assessed upon the aforesaid Villages, as speedily as they well may after the said assessing; and the same shall deliver to the said Knights, according to the Writs thereof, to be made upon the said Penalties. *Ibidem.*

And he that will sue in this Case, shall be thereunto admitted, and shall have a *Scire Facias* against him that offendeth contrary to this Ordinance, and shall recover ten pounds to their own use, over the said twenty pound, with their treble Damages for the Costs of their Suits. *Ibidem.*

And that the Justices of the Kings Bench, and of the Common Place, Justices of Assizes, and Gaol delivery, and Justices of the Peace, shall have Power to enquire, hear, and determine, of all the said Defaults, as well by Inquiry at the Kings Suit, as by Action at the Suit of the Parties. 23 *H.* 6. *c.* 11.

And

And that all such Expences of Knights shall not be levied of any other Villages, Seigniories, or Places, but of such whereof it hath been before this Time. And that in every such Writ to be made to levy the Wages of the Knights, This Act shall be comprehended in the same. 23 *H.* 6. *c.* 11. *Vide Register* 261. That Villains shall not be contributory to the Wages of Knights of the Shire for the Parliament, *Br.* 96. And Free-holders and Tenants at Will in ancient Demesn, and the Lords shall also be acquitted of such Expences for Knights of the Parliament. *Ancient Demesn. Br.* 431. *F. Natura brevium*, 14.

That to every Parliament two Knights shall be chosen for the County of *Monmouth*, and one Burgess for the Borough of *Monmouth*, in like manner, form, and order, as Knights, and Burgesses of the Parliament be elected in every County of *England*; and that the same Knights and Burgesses shall have like Dignity, Preheminence, and Priviledge, and shall be allowed such Fees, as other Knights and Burgesses of Parliament have been allowed; And such Fees to be levied, received, and paid in such manner, form, and

and order, as such Fees be gathered, received, and paid in other Shires of the Realm of *England*. 27 *H.* 8. *c.* 26.

And the Burgesses Fees to be levied as well within the Borough of *Monmouth*, as within all other ancient Boroughs within the said Shire of *Monmouth*: And that a Knight shall be chosen to the same Parliament for every of the Shires of *Brecknock*, *Radnor*, *Montgomery*, and *Denbigh*, and for every other Shire within the Dominion of *Wales*; and for every Borough being a Shire Town, within the County and Dominion of *Wales* (except the Shire-Town of the County of *Merioneth*) one Burgess; And the Election to be in manner, form, and order, as Knights, and Burgesses of the Parliament be elected in other Shires of this Realm. *Ibid.*

And that the Knight, and Burgess, and every of them, shall have like Dignity, Preheminence, and Priviledge, and shall be allowed such Fees as other Knights of the Parliament are allowed; And the Knights Fees to be levied and gathered of the Commons of the Shire that they be elected in; and the Fees of Burgesses to be levied, and gathered as well of the Boroughs, and Shire-Towns, as they be

Bur-

Burgeſſes of, as of all other ancient Boroughs within the ſame Shires. 27 *H.* 8. *c.* 26.

The Sheriffs of every of the 12 Shires in *Wales*, and in the County of *Monmouth*, ſhall have power to levy, gather, or to be levied and gathered the ſaid Knights Fees and Wages of the Inhabitants of the 12 Shires, and of the ſaid County of *Monmouth*, which ought to pay the ſame; and the ſame ſo gathered, ſhall pay to the Knights within two Months after the delivery of the Kings Writ for payment of the ſaid Wages or Fees; otherwiſe the Sheriff ſhall loſe, and forfeit twenty pounds: one Moiety to the King, and the other Moiety to him that will ſue for the ſame, in any Court of Record, by Information, Bill, or Plaint, or otherwiſe, before any of the Kings Officers, wherein no Eſſoign, Protection, or Waget of Law ſhall be admitted. 35 *H.* 8. *c.* 11.

And if it ſhall happen any Sheriff in any of the twelve Shires, and County of *Monmouth*, to make default of payment of the ſaid Wages, or Fees, by a longer term than two Months; then every ſuch Sheriff ſhall forfeit for every Month that he

he ſhall make default twenty pounds, to be forfeited and levied in manner and form as is aforeſaid. *Ibidem.*

And that every Mayor, and Bayliff, and other chief Officers of Cities, Boroughs, and Towns in every of the ſaid twelve Shires, and in the County of *Monmouth*, within like term and ſpace of two Months after the receipt of the Kings Writ *De ſolutione ſædi. burgent. Parliament.* as is before mentioned, for gathering of the Knights Fees, ſhall levy, gather, and pay the Wages and Fees to their Burgeſſes, in like manner and form as is aforeſaid, and in, and under like pain and forfeitures, as before mentioned, to be levied of the Goods and Chattels of every ſuch Mayor, Bayliff, or other head Officers to whom the Kings ſaid Writ ſhall be directed for the levying of ſuch Fees, making default of payment of the ſaid Fees, and Wages to the Burgeſſes, in manner and form as is aforeſaid; And the Burgeſſes of Cities, Boroughs, and Towns, within the twelve Shires of *Wales*, and the County of *Monmouth*, which are or ſhall be contributory to the payment of the Burgeſſes Wages of the ſaid Shire-Towns, ſhall be lawfully

ly admoniſhed, by Proclamation, or otherwiſe, by the Mayors, Bayliffs, or other head Officers of the ſaid Towns, or by one of them, to come, and give their Elections for the electing of the ſaid Burgeſſes, at ſuch time and place, lawful and reaſonable, which ſhall for that intent be aſſigned; in which Elections the Burgeſſes ſhall have like Voice and Authority, to elect, and name the Burgeſſes of every the ſaid Shire-Towns, as the Burgeſſes of the ſaid Shire-Towns have or uſe. *Ibidem.*

Two Juſtices of Peace in every of the ſaid Shires in *Wales*, and in the ſaid County of *Monmouth*, have Power and Authority, indifferently, to lot, and tax every City, Borough, and Town, within the Shires in *Wales*, wherein they do inhabit; and in the ſaid County of *Monmouth*, for the Portions and Rates that every the ſaid Cities, and Boroughs ſhall bear and pay towards the ſaid Burgeſſes, within the ſaid Shire-Towns of every of the ſaid Shires in *Wales*, and the County of *Monmouth*, which Rates ſo rated, and taxed in groſs by the ſaid two Juſtices of Peace, as is aforeſaid, ſhall be again rated, and taxed on the Inhabitants of every

ry the ſaid Cities and Boroughs, by
or 6 diſcreet and ſubſtantial Burgeſſes
every the ſaid Cities and Boroughs
Wales, thereunto named and aſſigned by
the Mayor, Bayliffs, or other Head Of-
cers of them for the time being; and
thereupon the Mayors, Bayliffs, and
other Head Officers of every ſuch City,
Borough, or Town, to collect the ſame
and thereof to make payment in manner
and form as aforeſaid, to the Burgeſſes
of the Parliament, within like time, and
upon the like pains and forfeitures, as
above mentioned. 35 *H.* 8 *c.* 11.

The Kings Aſſent, by his Letters Pa-
tents under the great Seal of *England*
and ſigned with his Hand, and notified
in his abſence to the Lords of Parliament
and Commons aſſembled togethet in the
higher Houſe, is, and ever was of the
good ſtrength and force, as if the King's
Perſon had been there perſonally preſent
and had aſſented openly and publickly
to the ſame; and ſuch Royal Aſſent
notified as aforeſaid, ſhall be taken good
and ſo effectual to all Intents, without
ambiguity or doubt, any Cuſtom or
Uſage to the contrary notwithſtanding.
33 *H.* 8. *cap.* 21.

Every

Every Knight choſen for the Parliament, and Sheriff that makes Election for them, ſhall have their Traverſe to ſuch Inqueſts and Offices, before any Juſtices of Aſſize hereafter to be taken, and they ſhall not be endammaged unto the King for any ſuch Inqueſt taken, untill they be duly convicted according to the form of the Law. *6 H. 6. cap.* 4.

All the Clergy hereafter to be called to the Convocation by the King's Writ, and their Servants and Familiars, ſhall for ever hereafter fully uſe, and enjoy ſuch Liberty, or Defence in coming, tarrying, and returning, as the great Men, and Commonalty of the Realm of *England*, called, or to be called to the King's Parliament, do, or were wont to enjoy. *8 H. 6. cap.*

No Appeal ſhall be purſued in Parliament. *1 H. 4. c.* 14.

The Burgeſſes of Parliament ſhall not be Collectors of a *Fifteen*, except they can diſpend in the County, out of the City or Borough of which they are Burgeſſes, in Lands or Tenements, to the value of an hundred Shillings by the Year, over the Charges and Repriſes. *18 H. 6. cap.* 5.

Knights,

Knights, Citizens, Burgeſſes and Barons of Parliament, muſt take the Oath of *Supremacy*, before they enter into the Parliament Houſe; but Lords of Parliament ſhall not be compelled to take the ſaid Oath. 5 *Eliz. c.* 1.

Vide, How Lords of Parliament ſhall be placed in the Parliament, and other Aſſemblies and Conferences of Council. 31 *H.* 8. *cap.* 10.

Lords of Parliament, for matters of Religion, ſhall be tried by their Peers. 1 *Eliz. c.* 2.

Perſons attainted by Parliament, and after become Lunatick, ſhall be executed notwithſtanding, 33 *H.* 8. *c.* 20. Quere, if this be not repeal'd by 1 & 2 *Ph.* & *Mar. c.* 10. *Staunford*, 153.

Women that have Joyntures aſſigned after marriage, may wave them, and take their Dowry at Common Law, if the Joynture be not aſſigned by Parliament, 27 *H.* 8. *c.* 10.

The County *Palatine* of *Cheſter* ſhall have two Knights for the County *Palatine*, and likewiſe two Citizens to be Burgeſſes for the City of *Cheſter*, to be choſen by Proceſs, to be awarded by the Chancellor of *England*, unto the Chamberlain of

of *Chester*, or his Lieutenant for the time being. And so like process to be made by the Chamberlain, or his Lieutenant, or Deputy, to the Sheriff of the said County of *Chester*: And the same Election to be made under like manner, and formed to all intents, constructions, and purposes, as is used within the County *Palatine* of *Lancaster*, or any other County and City within *England*; which Knights and Burgesses, and every of them so elected, shall be returned by the said Sheriff into the Chancery of *England*, upon the like pains as it is ordained that the Sheriff of any other County within this Realm should make their Return in case like. Which said Knights and Burgesses, and every of them, so chosen, and returned, shall be Knights and Burgesses of the Court of Parliament, and have like Voice and Authority to all intents and purposes, as any other the Knights and Burgesses of the said Court of Parliament have, use, and enjoy: And also may have, and take all and every such Liberties, Advantages, Dignities, Privileges, Wages, and Commodities, concerning the said Court of Parliament, to all Intents, Constructions, and Purposes, as any other the Knights and

and Burgeſſes of the ſaid Court, may or ought to take and enjoy, 34 *H.* 8. *c.* 13.

If any Aſſault or Affray be made to any Lord Spiritual or Temporal, Knight of the Shire, Citizen or Burgeſs, coming to the Parliament, or to other Council of the King, by his Commandment, and there being and attending at the Parliament or Council, that then Proclamation ſhall be made, in the moſt open Places in the Town, by three ſeveral days, where the Aſſault or Affray ſhall be made, that the Party that made ſuch Affray or Aſſault, yield himſelf before the King in his Bench, within a quarter of a year after the Proclamation made, if it be in the time of the Term, or otherwiſe at the next day in the time of the Term following the ſaid quarter, and if he do not, that he be attainted of the ſame deed, and pay to the Party grieved his double damages, to be taxed by the diſcretion of the Juſtices of the ſame Bench, or by Inqueſt, if it be needful, and make Fine and Ranſom at the King's will; and if he come, and be found Guilty by Inqueſt, by examination or otherwiſe, of ſuch Affray or Aſſault, then he ſhall pay to the Party ſo grieved his double damages, found by the In-

Inquest, or to be taxed by the discretion of the said Justices, and make fine and ransome at the King's will, as above is said, 11 *H.* 6. *c.* 11.

Vide, the Act made for the assurance of Lands to *John Hind*, Serjeant at Law, and his Heirs, paying annually ten pounds towards the maintenance and wages of Knights of Parliament, for the County of *Cambridge* for ever, 34 & 35 *H.* 8. *c.* 24.

Note, by *Kirby*, Clerk of the Rolls of Parliament, that the custom or usage of Parliament is, that if a Bill come first to the Commons, and they pass it, then the Use is to indorse it in such manner, *Soit baile a Seigniores*, and upon that, if neither the Lords, nor the King do alter it, then it shall be delivered to the Clerk of the Parliament to be enrolled, without indorsing it, and if it be a general Bill, it shall be inrolled, but not if it be a private Bill, but it shall be put on the File, and that is sufficient; but if the party will sue to have it inroll'd, then it may be inroll'd for sureties sake, 33 *H.* 6. 17.

If the Lords will alter a Bill, in that which may stand with the Bill, they may so do, without remanding to the Commons; as if the Commons grant Poun-

Poundage for four years, and the Lords will grant it but for two years, this Bill shall not be carried back again to the Commons. But if the Commons grant it but for two years, and the Lords will grant for four years, there the Bill shall be delivered to the Commons; and in this case the Lords ought to make a Schedule of their Intention, or indorse the Bill in this manner; *The Lords have assented for the term of four years.* And when the Commons have the Bill again, and they will not assent to it, this can be no Act. But if the Commons will assent, then they indorse their Answer upon the Margent of the Bill beneath in such form; *The Commons have assented* to the Schedule of the Lords annex'd to the same Bill, and then it is delivered to the Clerk of Parliament, *ut supra.* 33 *H.* 6. 17.

If a Bill be first delivered to the Lords, and they pass it, they use not to make any Indorsement, but send the Bill to the Commons, and if it pass them, the use is to indorse it thus, *Les Commons sont Assentants*, and this proves that it passed the Lords before; And therefore if *J. S.* be attainted of Trespass by Parliament, and the Commons assent, that if he

does

does not come in by such a day, he shall forfeit such a Sum, and the Lords give him a longer day, and the Bill is not sent back to the Commons again, this is no Act, for that the Bill was not delivered back to the Commons after the inlargement of the day given by the Lords. 33 *H.* 6. 17.

Every Bill that passes the Parliament, shall have relation to the first day of Parliament, although it come in at the end of the Parliament, and it is not the custom to make any mention what day the Bill was delivered in to the Parliament; *per Faukes* Clerk of the Parliament. 33 *H.* 6. 17. unless a time be specially appointed by the Statute when it shall Commence. Com. 79.

If the Parliament begin before *Pentecost*, and continue after *Pentecost*, and the Commons agree to a Bill after *Pentecost*, and give a day at *Pentecost* next, and the Lords do so too; Now for that, a Bill shall have relation to the first day of Parliament, if it be not ordered otherwise; it shall be taken for this *Pentecost*, which is passed at this Sessions,

whereas the intent of the Lords and Commons, was, that it ſhould be *Penteceoſt* after this Petition named in the Bill. *Parliament B.* 4.

Altho the Lords and Commons agree to a Bill, yet it is no Act, till the King has given his Royal Aſſent to it in proper Perſon, or under his great Seal, and if the King Aſſent, then is written upon the Bill, *Le Roy veult*; And if the King will not Aſſent, then it is indorſed, *Le Roy adviſera*. 33 *H.* 6. 17. 33 *H.* 8. *c.* 21.

Every Knight, Burgeſs, Baron of the Cinque Ports, or other call'd to Parliament, ſhall have priviledge of Parliament during the Parliament, or Seſſion of Parliament, ſo that he that arreſts any of them during that time, ſhall be impriſoned in the *Tower* by the Lower Houſe, of which he is, and ſhall be put to a Fine, and the Keeper alſo, if he will not deliver him ſo arreſted, when the Serjeant at Arms comes for him, by the command of the Houſe of which he is. *Dier*, 60.

Note, in the Lower Houſe, when a Bill is read, the Speaker does open the parts

parts of the Bill, ſo that each Member of the Houſe may underſtand the intention of each part of the Bill; and the like is done by the Lord Chancellour in the Upper Houſe; then when it is read the ſecond time, ſometimes it is ingroſſed without any Commitment, but then the Speaker makes queſtion of it, in this manner: The queſtion is, *Whether this Bill ſhall be ingroſſed or not? As many as would have the Bill ingroſſed, ſhall ſay, Yea, and as many as would not, ſay, No.*

But in the Upper Houſe of Parliament, when ſuch queſtion is made about Ingroſſing, if there be no Contradiction, the Lords do not deliver their Aſſent in ſaying, *Content*, or their Diſſent in ſaying, *Not Content*, for huſbanding the time: But if there be any Contradiction, it is tried *Seriatim*, by *Content* or *Not Content*; but neither in the Upper or Lower Houſe, the Lord Chancellour or Speaker, ſhall not repeat a Bill or an Amendment but once. *Ibidem.*

When a Bill is committed to the ſecond reading, then if the Committees

amend it in any point, then they shall write down their amendment in a Paper, and shall direct to a Line, and between what words the Amendment shall be put in, or what words shall be interlined, and then all shall be ingrossed in a Bill. *Ibid.*

And if a Bill pass in the Commons House, and the Lords amend the Bill when it is sent to the Upper House, they do as before shew the Line, and between what words, and after the Amendments are ingrossed, with particular References, and the Bill with the Amendments, are sent again to the House of Commons, where they affirm them: The amendments are read three times, and then they insert them in the body of the Bill, and so è *Converso* of a Bill which passeth first in the Upper House. But Note, that in one of these Cases, the intire Bill shall not be read again in the House, wherein they first pass, but the amendments only, for no Bill shall be read above three times. *Ibidem.*

No Lord ought to speak to the Bill twice in one day: Also no Knight, Citizen

tizen or Burgeſs, ought to ſpeak above once to one Bill in one day, unleſs ſometimes by way of Explication.

No private Bill ought to be read before the publick Bills, unleſs the one Houſe or the other do require it. *Coke lib.* 13.

Note, in the Houſe of Commons, thoſe that are for the new Bill, (if there be a queſtion of Voices) ſhall go out of the Houſe, and thoſe who are againſt the Bill, and for the Common Law, or any former Law, ſhall ſit ſtill in the Houſe; for they are in poſſeſſion of the old Law, the other of the other, to number the Voices. *Coke, lib.* 13.

In both Houſes, he which firſt ſtands up to ſpeak, he ſhall firſt ſpeak without any difference of Perſons. *Ibid.*

When a Bill is ingroſſed, at the third reading it may be amended in the ſame Houſe in any matter of Subſtance *à fortiori*; the Errour of the Clerk in the Ingroſſing may be amended.

Note; The Priviledge, Order, or Cuſtom of Parliament, either of the Upper Houſe, or of the Houſe of Commons, belongs to the Determination or

Decision only of the Court of Parliament; And this appeareth by two notable Precedents.

The one, at a Parliament holden the twenty seventh Year of King *Henry* the *6th.* There was a Controversie moved in the Upper House, between the Earls of *Arundel* and of *Devon-shire*, for their Seats, Places, and Preheminencies of the same, to be had in the King's Presence, as well in the High Court of Parliament, as in his Counsels, and else-where: The King, by the advice of the Lords Spiritual and Temporal, committed the same to certain Lords of Parliament, who, for that they had not leisure to examine the same, it pleased the King, by the advice of the Lords at this Parliament, in *Anno* 27*th.* of his Reign, that the Judges of the Land should hear, see, and examine the Title, *&c.* and to report what they conceive herein: The Judges made

made Report as followeth; That this matter (*viz.* of Honour and Precedency, between the two Earls, Lords of Parliament) was a matter of Parliament, and belonged to the King's Highneſs, and the Lords Spiritual and Temporal in Parliament, by them to be decided and determined; yet being there ſo commanded, they ſhewed what they found upon Examination, and their Opinions thereupon.

Another Parliament in 31 *H. 6.* which Parliament begun the ſixth of *March*, and after it had continued ſome time, it was prorogued untill the fourteenth of *February*; and afterwards in *Michaelmas* Term, *Anno* 31 *H. 6. Thomas Thorpe*, the Speaker of the Commons Houſe, at the Suit of the Duke of *Buckingham*, was condemned in the *Exchequer* in 1000 *l.* damages for a Treſpaſs done to him: The fourteenth of *February*, the Commons moved in

the Upper Houſe, That their Speaker might be ſet at liberty to exerciſe his Place: The Lords referred this Caſe to the Judges; and *Forteſcue* and *Priſot*, the two Chief Juſtices, in the name of all the Judges, after ſad Conſideration, and mature Deliberation had amongſt them, anſwered, and ſaid, that they ought not to anſwer to this Queſtion, for it hath not been uſed aforetime, That the Juſtices ſhould in any wiſe determine the Priviledge of this High Court of Parliament, for it is ſo High and Mighty in its nature, that it may make Laws, and that that is Law, it may make no Law: And the determination and knowledge of that Priviledge, belongeth to the Lords of the Parliament, and not to the Juſtices: But as for the proceedings in the Lower Courts in ſuch Caſes, they delivered their Opinions. And in 12 *E.* 4. 2. in Sir *John Paſton*'s Caſe, it is holden,

holden, that every Court ſhall determine and decide the Privileges and Cuſtoms of the ſame Court, &c.

See *Dier*, *Fol.* 275. One was in Execution, that was a Burgeſs of Parliament, and was let at large by a Priviledge Writ of Parliament. *P.* 34 & 35 *H.* 8. *Rot.* 23. And Debt brought againſt the Jaylor for an eſcape, but he ſays not what happened thereon.

See *Hollinſhed*, in his Cronicle, *Fol.* 1584. The Caſe of one *Ferrers*, ſet at liberty, that was a Burgeſs of Parliament, and arreſted, and put in Execution in *London*, ſitting the Parliament; and this was *Anno* 34 *H.* 8. and was the Caſe of *Ferrers*, as I believe, of which *Dier*, *Fol.* 275 ſpeaks.

In the *Lent* Seaſon, whilſt the Parliament yet continued, one *George Ferrers*, Gentleman, Servant to the King, being elect a Burgeſs for the Town of *Plimmouth* in the County of *Devon*, in going to the Parliament-Houſe was arreſted in *London*, by a Proceſs out of the

King's Bench, at the Suit of one *White*, for the Sum of two hundred Marks, or thereabouts, wherein he was late afore condemned, as a Surety for the Debt of one *Welden* of *Salisbury*; which Arreſt being ſignified to Sir *Thomas Moile*, Knight, then Speaker of the Parliament, and to the Knights and Burgeſſes there, Order was taken, that the Serjeant of the Parliament, called *S. I.* ſhould forthwith repair to the Counter in *Breadſtreet*, whither the ſaid *Ferrers* was carried, and there to demand delivery of the Priſoner. The Serjeant, as he had in charge, went to the Counter, and declared to the Clerks there what he had in commandment, but they, and other Officers of the City, were ſo far from obeying the ſaid Commandment, as, after many ſtout words, they forcibly reſiſted the ſaid Serjeant, whereof enſued a Fray within the Counter-gates, between the

ſaid

ſaid *Ferrers* and the ſaid Officers, not without hurt of either part, ſo that the ſaid Serjeant was driven to defend himſelf with his Mace of Arms, and had the Crown thereof broken by bearing off a ſtroke, and his man ſtrucken down. During this Brawl, the Sheriffs of *London*, called *Rowland Hill*, and *H. Suckley*, came thither, to whom the Serjeant complained of this Injury, and required of them the delivery of the ſaid Burgeſs, as afore; but they bearing with their Officers, made little account either of his Complaint or his Meſſage, rejecting the ſame contemptuouſly, with much proud Language, ſo as the Serjeant was forc'd to return without the Priſoner; and finding the Speaker, and all the Knights and Burgeſſes ſet in their places, declared unto them the whole cauſe as it fell out, who took the ſame in ſo ill part, that they all together

(of

(of whom there were not a few, as well of the King's Privy Council, as alſo of his Privy Chamber) would ſit no longer without their Burgeſs, but roſe up wholly and repaired to the Upper Houſe, where the whole Caſe was declared by the mouth of the Speaker before Sir *T. Audley*, Knight, then Lord Chancellour of *England*, and all the Lords and Judges there aſſembled, who judging the Contempt to be very great, referred the puniſhment thereof to the order of the Common Houſe. They returning to their places again, upon new debate of the Caſe, took order that their Serjeant ſhould ſpeedily repair to the Sheriffs of *London*, and require delivery of the ſaid Burgeſs, without any Writ or Warrant had for the ſame, but only as afore. Albeit the Lord Chancellour offered there to grant a Writ, which they of the Common Houſe refuſed,

ſed, being in a clear Opinion, that all Commandments, and other Acts proceeding from the nether Houſe, were to be done and executed by their Serjeant without Writ, only by ſhewing of his Mace, which was his Warrant. But before the Serjeant's return into *London*, the Sheriffs having intelligence how heinouſly the matter was taken, became ſomewhat more mild, ſo as upon the ſaid ſecond demand, they delivered the Priſoner up without any denial. But the Serjeant having then further in commandment from thoſe of the nether Houſe, charged the ſaid Sheriffs to appear perſonally on the morrow by eight of the clock before the Speaker in the nether Houſe, and to bring thither the Clerks of the Counter, and ſuch other of their Officers as were Parties to the ſaid Affray, and in like manner to take into his cuſtody the ſaid *White*, which wittingly procured the

the ſaid Arreſt, in Contempt of the priviledge of the Parliament, which Commandment being done by the ſaid Serjeant accordingly on the morrow, the two Sheriffs, with one of the Clerks of the Counter (which was the chief occaſion of the ſaid Affray) together with the ſaid *White* appeared in the Common Houſe, where the Speaker charging them with their Contempt and Miſdemeanor aforeſaid, they were compelled to make immediate Anſwer, without being admitted to any Counſel. Albeit Sir *Ro. Cholmley* then Recorder of *London*, and other the Counſel of the City there preſent, offered to ſpeak in the cauſe, which were all put to ſilence, and none ſuffered to ſpeak, but the parties themſelves, whereupon in concluſion, the ſaid Sheriffs and the ſaid *White* were committed to the *Tower* of *London*, and the ſaid Clerk (which was the occaſion of the Fray)

to

to a place there called *Little-eaſe*, and the Officer of *London* which did the Arreſt, called *Tailor*, with four Officers, to *Newgate*, where they remained from the 28*th* until the 30*th* of *March*, and then they were delivered, not without humble ſuit made by the Mayor of *London*, and other their Friends. And foraſmuch as the ſaid *Ferrers* being in Execution upon a Condemnation of Debt, and ſet at large by priviledge of Parliament, was not by Law to be brought again into Execution, and ſo the party without remedy for his Debt, as well againſt him as his principal Debtor; after long debate of the ſame, by the ſpace of nine or ten days together, at laſt they reſolved upon an Act of Parliament to be made, and to revive the Execution of the ſaid Debt againſt the ſaid *Welden*, which was Principal Debtor, and to diſcharge the ſaid *Ferrers*. But before this came

to pass, the Common House was divided upon the Question: but in conclusion, the Act passed for the said *Ferrers*, who won by fourteen Voices. The King being then advertised of all this proceeding, called immediately before him the Lord Chancellor of *England* and his Judges, with the Speaker of the Parliament, and other of the gravest Persons of the nether House, to whom he declared his Opinion to this effect. First, commending their wisdom in maintaining the Privileges of their House (which he would not have to be infringed in any point) alleged, that he being Head of the Parliament, and attending in his own Person upon the business thereof, ought in reason to have Priviledge for him and all his Servants attending there upon him. So that if the said *Ferrers* had been no Burgess, but only his Servant, that in respect thereof, he was to have the pri-

priviledge as well as any other. For I underſtand (quoth he) that you not only for your own Perſons, but alſo for your neceſſary Servants, even to your Cooks and Horſe-keepers, enjoy the ſaid Priviledge, inſomuch as my Lord Chancellour here preſent, hath informed Us, that he being Speaker of the Parliament, the Cook of the *Temple* was arreſted in *London*, and in Execution upon a ſtatute of the Staple: And foraſmuch as the ſaid Cook, during the Parliament ſerved the Speaker in that Office, he was taken out of Execution by the priviledge of the Parliament: and farther, We be informed by our Judges, that We at no time ſtand ſo highly in our Eſtate Royal as in the time of Parliament, wherein We as Head, and you as Members, are conjoyned and knit together into one Body Politick, ſo as whatſoever Offence or Injury (during that time

is

is offered) to the meaneſt Membe
of the Houſe, is to be judged, a
done againſt our Perſon, and th
whole Court of Parliament, which
Prerogative of the Court is ſo grea
(as our learned Counſel informeth
us) as all Acts and Proceſſes com-
ming out of any other inferiour
Courts, muſt for the time ceaſe and
give place to the higheſt. And tou-
ching the Party, it was a great
Preſumption in him, knowing our
Servant to be one of this Houſe, and
being warned thereof before, would
nevertheleſs proſecute this matter
out of time, and therefore was well
worthy to have loſt his Debt,
which I would not wiſh, and there-
fore do commend your Equity,
that having loſt the ſame by Law,
have reſtored him to the ſame a-
gainſt him who was his Debtor,
and this may be a good Example
to others, not to attempt any thing
againſt the Priviledge of this Court,

but

but to take the time better; where-upon Sir *Edward Montague*, then Lord Chief Justice, very gravely declared his Opinion, confirming by divers reasons all that the King had said, which was assented unto by all the Residue, none speaking to the contrary, the Act indeed passed not the higher House, for the Lords had not time to consider of it, by reason of the dissolution of the Parliament. Because this Case hath been diversly reported, as is commonly alleged as a President for the priviledge of the Parliament, I have indeavoured my self to learn the Truth thereof, and to set it forth with the whole Circumstances at large, according to their Instructions who ought best both to know and remember it.

Note, *Danby* says——That one coming to *Westminster* (for that he was a Parliament-Man) and was arrested, and lay in Execution upon a Condemnation long time before the Parliament, and would

would have been discharged of the Execution, and the matter was notified to the King's Council, and to the Justices of the Bench, that he could not be discharged, and *Coke* said, that it was true. 2 *E.* 4. *fol.* 8. *vide Dyer*, 162. A man in Execution for Debt, altho he was necessary for War, which is for the publick good, cannot be taken out of Execution. *per omnes Justic'.*

The Parliament shall not give Priviledge, in time of Vacation, but sitting the Court, *Priviledge. Br.* 56.

Necessary Servants attending upon their Masters, during the Parliament, shall have priviledge of Parliament; so that they shall not be arrested for Debt, or such like; And so shall have priviledge of Parliament the necessary Officers that attend on the Parliament, as the Serjeant at Arms, Porter of the House, Clerks, and such like, and in the same manner for their necessary goods, so that they shall not be arrested nor taken by any other Officer (unless it be in case of Treason or Felony) in the same manner as Judges, or Ministers of other Courts shall have for their Servants,

vants, Goods, and Chattels neceſſary; *Priviledge, Br. 6. 29. 24.*

If they cannot agree in Parliament upon a Bill, the Tryal ſhall be by the greater number of Polls.

He that comes to Parliament, ought to be a lawful Perſon, not Out-law'd, nor in Execution, nor attainted of Treaſon or Felony, neither ſhall he be a Villain. *Vide Proceſs Fitzh.* 20 8. 34 E. 1. A Witneſs that was named in a Deed among others, was Out-law'd, no Proceſs ſhall be awarded againſt him by the Statute, for that he was Out-law'd; If one of the Indictors be Out-law'd, the Indictment is not good, becauſe he is not *Legalis & probus Homo.* 11 H. 4. 11.

Divers of Parliament were attainted of Treaſon by the Parliament in the time of *R.* 3. with *H.* 7. and it was agreed by the Juſtices, that untill the Act of Attainder was repeal'd, ſuch Burgeſſes or Knights ſhall not be received into the Houſe to ſit there, but aſſoon as the Act was revers'd and annull'd, they ſhould come into their places, and then may proceed upon any thing there moved

moved lawfully, as lawful Perſons; But as to the King himſelf, it was agreed, that the King was a Perſon able, and diſcharg'd of any former Attainder *ipſo facto*, that he took upon him to Reign, and to be King, for there is no Superiour to diſcharge him. 1 *H.* 7. 4.

If there be divers Seſſions of Parliament, and there Acts paſſed at every Seſſion, every Act ſhall have relation to the firſt day of every Seſſion. *Comment.* 78.

The Errors committed in Chancery, in things appertaining to the Common Law, ſhall be reverſed in the Kings Bench. *Dyer* 315, *& Error Fitzh.* 71. 18 E. 3. by which it ſeems that the Kings Bench is a Higher Court than the Court of Chancery as to that; *Tamen quære*, *vide* 37. *H.* 6. 15, where it is ſaid, that it ſhall be reverſed in Parliament, by *Choke*, *Danby*, and *Aſton*, *vide Com.* 393, *& Breve Fitzh.* 651. *Vide* 42 *Lib Aſſ.* 22. where Error was committed in Chancery upon Petition made there, and a *Scire facias* iſſued in the ſame Court againſt the Party to the Petition of the *Terre-Tenant*, to reverſe the

Erro

Erroneous Judgement thereof. If the King be deceiv'd in making his Charter, it shall by *Scire facias* be annulled in Chancery, out of which it issued, and not in Parliament, *Brief Fitzh.* 651. 16 *E.* 3. But note there, that both are the Kings Courts, and the King may sue in which of his Courts he pleases, in his own Case. But *Thorpe* said there, that in the Case between *G.* and *G.* the Suit was in Parliament, to reverse a grant and Charter of the King, which *Parner* granted, for that it was between party, and party; and as to the last matter, *vide* 21 *E.* 3. 46. accorded.

If there be a Statute that was never put in ure, yet it may be put in ure at this time, 11 *H.* 4. 7. yet see the Statute of *Butler* made 20 *E.* 1. is not put in ure, which gives waste to the Heir done in the time of his Ancestor, for the Register gives not a Writ of waste done in the time of the Ancestor, *&c.*

A Parliament may err, as appears *Parliament. Br.* 16. which reversed the Estate of *J. S.* in certain Land, and the Charter thereof to him made, without calling the Patentee to it by process before

before the Repeal; 21 E. 3. 4. *Plowd. Com.* 400. in the case of the Earl of *Leicester*, and *Heyden*. And Error in Parliament ought to be reversed by Parliament. *Error Br.* 65.

The Queen may under the great Seal assign two or three Lords of Parliament to supply her place in Parliament, if she be sick, or if she will not come for any other cause to Parliament, as it was done *Anno* 31 *Eliz.* the Queen that now is; at which time the Arch-Bishop of *Canterbury*, the Lord Treasurer of *England*, and the Earl of *Derby*, under the great Seal, were appointed Commanders by our Sovereign Lady the Queen to represent her Person in the Parliament, and they sat one space lower from the Cloth of Estate in the Parliament House.

A Statute in the negative restraineth the Common Law, so that after such Statute a Man may not use the Common Law, as the Statute of *Marlbr. c.* 3. *Non ideo puniatur dominus per Redemptione*, and *Magn. Chart. c.* 34. *nullus appelletur ad sectam elienius feminæ nisi de morte viri sui.* Otherwise, it is where a Sta-

Statute is made in the Affirmative, because that does not alter the Common Law. *Parliament. Br.* 72. 108.

Note, by *Englefield* Justice, in the case of *Button* and *Savage*, that where a man had an elder Title to Land by one Entail, and after the same Land is given to him by Parliament, his Heir shall not be remitted, for by the Act all other Titles are extinct, for that the Act is the Common Judgment, and an Estoppel to every one that is privy to the Act. *Parliament. Brooke* 73. 29 *H.* 8. 21 *Ed.* 4. 57.

If the King has an ancient Title to Land tayled, and the same Land is given to him by Parliament, the Entail is gone, so that his Heir shall not avoid Leases made by his Father, nor Charges and the like. *Parl. Br.* 73. 29 *H.* 8.

It was held, that these words, to wit, the King with the Assent of his Lords and Commonalty Grants, or Establishes, &c. This is as well as if it had been, *That it was enacted at the Request of the Lords and Commons*, &c. and that the King had assented; but the more usual words are, *That it be enacted by the King*,

King, by the assent of the Lords and Commons, &c. But the shorter, and sufficienter Words are, *that it be enacted by the Authority of Parliament. Parliament. Brooke 76. 7 H. 7. 14.*

The ancient Statutes, as *Magna Charta*, and other Statutes are, *Quod Rex statuit*, and good, for it is implied, that the Lords and Commons assented, *Parliament. Br. 76.* and the Statute *de Finibus*, 27 *E.* 1. is, *Statuimus & ordinavimus.*

No Lord shall be tryed by Peers, but Lords of Parliament, which are Temporal Lords, and not Spiritual Lords; for a Bishop, that is a Lord of Parliament, shall be tried as other common Persons are, as by Knights, Esquires, and Gentlemen; for that a Bishop is not a Lord but by reason of his Bishoprick, and so was *Cranmer*, Arch-Bishop of *Canterbury*, 1 *Mar. Reg. Stanford*, 153.

A Peer of the Realm shall be tried in an Appeal by Knights, *&c.* and not by his Peers, because it is at the suit of the Party. *Trial. Br.* 142. *Corom. Br.* 155. 10 *E.* 4. 6. *Stam.* 152. Otherwise it is in an Indictment of Treason or Felony, for that it is at the suit of the King, 10 *E.* 4. 6.

The

The Duke of *Somerset* in the time of *E. 6.* was tried for Felony and Treason by his Peers upon an Indictment, for it is the Suit of the King. *Coron. Br.* 153. 10 *Ed.* 4. 6. accords. And there it is said by *Littleton*, that the Lord *Grey* of *Codnor*, in an Appeal, was tried, as a Common Person is, and not by his Peers, although he was a Lord of Parliament. Treason, *Br.* 2.

A man may be attainted by Parliament of Treason as well as by the Common Law, by Verdict, Outlawry, or Confession; because the Parliament is the highest Court of Record in *England*, and shall not be restored in his Blood without Parliament, but the King may give to him that is attainted his Life by his Charter of Pardon, and that by apt Words. *Stanford* 53.

The King cannot alter the Common Law, nor a general custom of the Country, as the descent of Land in *Gavil-kind*, *Burgh-English*, and such like, without Parliament. *Prerogative*, *Brooke* 15. 11 H. 74. and see the Statute of 33 *H.* 8. *c.* for the alteration of descents of *Gavil-kind*, and that the descent shall be as to Heirs at Common Law.

When a Lord of Parliament is tried by his Peers, they ſhall not be ſworn to ſay their Verdict, but they ſhall give their Verdict upon their Honour, and are not otherwiſe charged but upon their Honours. 1 H. 4. 1. and *Stamford* 152. From this, note what accompt the Law makes of a Peers Word, when he ſpeaks upon his Honour, and this in caſe of a mans Life. *A multo fortiori* they ought to obſerve in leſſer Caſes when they ſpeak, and make promiſe upon their Honour upon good Conſiderations.

When a Statute may be taken to a double intent, the better ſhall be taken for the King, as the Statute of 14 E. 3. *c. ultimo*, in Stat. 1. it is ordained, that for every Sack of Wool carried out of the Realm, the Merchant ſhall find Surety to bring into *England* Plate of Silver of two Marks, and to take two marks of Coyn again for Bullion; and after were two Statutes, one made 36 E. 3. *c.* 11. whereby it is ordained, that the Commons have granted to the King of every Sack of Wool for three years one grand Subſidy, he grants by

the ſame Statute, that after the three years, nothing ſhall be taken or demanded of the Commons but the ancient Cuſtom of one Mark of every Sack of Wool; and the other Statute made 25 E. 3. *c.* 4. which ordains, that no Impoſition, or Charge ſhall be put upon Wools, *&c.* other than the Cuſtom and Subſidy granted to the King, in no ſort, without the aſſent of the Parliament, and upon an Information in the Exchequer againſt one that had carried Wools, and had not found Surety according to the ſaid Statute of 14 E. 3. which two Statutes aforeſaid were pleaded, and adjudged, that the finding of Surety for bringing in the two Marks of *Bullion* is not taken way, for every Statute ſhall be taken moſt beneficial for the King, where it may be taken to a double intent, and it ſhall be taken, that it was the intent of the Makers of thoſe ſaid Statutes, to diſcharge the Commons of the grand Charges upon Wools after the three years, 4 E. 3. *fol.* 3. & *fol.* 12. *Barre. Fitzh.* 309. *Vide Com.* 10. 11.

The Duke of *Buckingham* brought an Action, *de Scandalis Magnatum*, againſt

one *Lucas*; for that he had said, *the Duke had no more Conscience than a Dog, and so that he may have Goods, he cared not how he came by them*, and recovered forty pound, as appears, *Mich.* 4 H. 8. *Rot.* 659. And the Duke may have a Suit in the *Star-Chamber* for such words; and I have viewed a Copy of the Record.

The Lord *Abergaveny*, brought an Action upon the said Statute against *Cartwright*, for that the Defendant had told, and counterfeited false news of the Plaintiff; to which the Defendant said, that the Plaintiff will wind the Guts of the Defendant about his Neck; the Defendant pleaded not Guilty, and in Evidence the Plaintiff shewed a Letter written to one *B.* wherein the Defendant said, that he understands by Report, that the Lord had said, *ut supra*, and held good Evidence, and it was found for the Plaintiff, and had Judgment accordingly; And so see, that to *write* and to *say*, are all one, for it is publick. *Vide* Book of Entries 13. that fixing a slanderous Bill in an open and and publick Place bears an Action, &c.

In

In an Errour in Parliament, the Record remains with the Justices, and they are to shew it to the Parliament, and it shall not be removed to Parliament. 8 *H.* 5. Errour *Fitzh.* 88. *Dyer.* 375. In such Case the Roll was carried by *Wray* Chief Justice into Parliament, for the Errour was assign'd in the King's Bench, but after that the Court of Parliament had examined it, he takes the Record with him, and leaves a Transcript in the Court of Parliament.

A Petition in Parliament exhibited by *A. T.* for a Title he made to Land, that the King enjoyed, which was received, and sent into *Chancery* to be tried, *Assise.* 287. *Lib. Ass.* and he surmised, that there was a delay in the Tryal of his Right.

Those of *London* may bargain and sell their Land there, as they might before the Statute of Inrolments, and so it may be done in other Boroughs and Cities; and it was the Opinion of the Justices of both Benches, that the Lands in Cities, *&c.* are, where the Common Law is exempted from the Act, and so, the Lands devisable before, 32 *H.* 8. *c.* 1.

are deviſable at this day, notwithſtanding the Act aforeſaid. *Dyer* 155. And ſo a Statute in the Affirmative ſhall not change the Common Law, nor common Cuſtom of a Town, as to Inheritances.

A Lord of Parliament ſhall have Knights upon his Tryal in every Action, 27 H.8 *fol.*27. Challenge. *Fitzh.* 115, 13 E. 3. in a *Quare Impedit* againſt a Biſhop it has been ſo adjudged. *Com.* 117. *Dyer* 208. according.

A Lord of Parliament may be Outlaw'd for Murder, 27 H. 8. *Fol.* 17. and it was the Caſe of the Biſhop of *Winchester*, *Ibidem. Vide Proc' F.* 224.

If a Lord of Parliament makes a *Reſcous*, a *Capias* ſhall be taken out againſt him, if the Sheriff return the *Reſcous*; otherwiſe it is in Caſe of Debt. 27 H.8.27.

An Exigent ſhall iſſue forth againſt a Lord of Parliament, if it be not certified that he is a Lord of Parliament, 27 H. 8. 27. 35 H. 6. A Lord of Parliament ſhall not be Sworn on an Inqueſt, 27 H. 8. 27.

Day of Grace ſhall not be given againſt a Lord of Parliament. 27 *H.* 8. 27. 27 *E.* 3.

A

A Capias ad Satisfaciendum, does not lye against a Lord of Parliament. 27 *H.* 8. 27. for the Law presumes that he has Assets, *&c.* 11 *H.* 4. 15.

A Man shall not be remitted that takes an Estate by Parliament. 34 *H.* 8. *Remitter Br.* 49. If the King gives Land to me, that is mine already, by Patent in fee, I shall not be remitted. 21 *E.* 4. 57. But if the King recites my former Right, and gives it me, I shall be remitted. *Ibidem. Lib. Ass.* 28.

Note; That the King cannot alter the Law, by his Proclamation, but he can make Proclamation, that if any one does contrary to the Contents of the Proclamation, that he shall incurr the Indignity of his Majesty; But upon pain of forfeiture of his Land or Life, without Parliament he cannot. *Vide* 31 H. 8. *c.* 8. That it was ordain'd by Parliament, that Proclamations made by the King, by advice of certain of his Council named in the same Act, ought to be obeyed, as though they were made by Act of Parliament. And after, 34 H. 8. *c.* 23. another Statute was made, concerning Offenders of the former Statute; But by

the 1 *H.* 6. c. 12. both the Statutes are repealed; by which Statutes it appeareth, that Proclamations shall not bind as Acts of Parliament do, unless it be so ordain'd by Parliament; for if so, the said Statutes of *H.* 8. were made in vain.

A Statute recites, that such are attainted of Treason before such Commissioners, and this Attainder is confirmed; if there were no such Attainder in deed, the Act does not attaint them at all. *Com.* 400. A notable Case between *Robert* Earl of *Leicester* and Sir *Christopher Heydon*, and the recital that they were attainted, shall not conclude the Party so supposed to be attainted, but that by an Averment he may avoid it; see the Book.

By the 27 *H.* 8*th.* it was ordained that it should be Felony in a Servant to embezzil the Goods of his Master, and after by 1 *E.* 6. c. 12. all Felonies, made in the time of *H.* 8*th.* are annull'd, but the Felony of Embezilling, *&c.* And by the said Statute of 1 *E.* 6. it is recited, that the said Statute of 27 *H.* 8*th.* was held at *Westminster*, upon divers Prorogations, the 4*th.* of *February* in *Anno* 27 *H.* 8.

8. and there continued, and kept till the 24th. day of *April* next following; and for that the said *Branch* recites the Act of 27 H. 8. aforesaid, for that Session begun the fourth day of *February* 27 H. 8. and continued until 24th. day of *April* then next following, and then ended, and not continued until 24th. day of *April*, as the *Branch* makes mention) by which it is Evident, that the *Branch* of the Act that refers to a Statute made in one Parliament, that begun such a day and continued till such a day, (whereas the Parliament did not continue) this must be void in point of time: and so the Parliament may mistake a thing, and by reason of this Mistion, it will not Arraign a Man that shall embezil his Master's Goods, after said Act of 27 H. 8. *Com.* 400.

If a Statute make an Act Felony, and does not mention Accessories, yet there shall be Accessories in the Case of the Statute: and this Master *Dalliſon*, Justice of the King's Bench, said, that it was so held by the King's Bench Court, 3 & 4 *Ed. et Mar.* in *Lambert* Reports in his Book of the Justices of Peace. *Fol.* 289.

Vide

Vide Stamford, 44. and 19 *H.* 6. 47. according. In the Case of counterfeiting the Seal, or Money, where the consenter or aider to it, &c. And yet the Statute speaks, If a Man counterfeit, &c. which thing another did not: so of Rape, where one commits the Act, and the other aids. 11 H. 4. 12. *Coron. Fitzh.* 228. *Vide* Parliament. *Br.* 46.

If an Act make a new Law in the Affirmative, which was not at Common Law, this Law implies a Negative; as a Man seised in right of his Wife, infeoffs a Stranger to the use of himself and his Wife, she is not remitted because she is a Purchaser of the Use, and she shall have the Land, as to the Use, wherein so much is implied, as if the Statute had said, *Et non aliter, seu alio modo.* Com. 113. As the Statute of *Westm.* 2 *c.* 4. grants, that in a *Quod ei Deforciat*, if the Tennant recover, and maintain the Title of that which the Demandants call *Ad Warrantum ac si esset*, Tenants in *Priori brevi*, there, if the former Action had been such, in which he could not Vouch, as a *Scire Facias*, the Demandant shall not Vouch

because

because it is not a new Ordinance of a thing that was at Common Law, which implies a Negative; As if it had been said, *Et nullo alio modo. Ibidem.* 113.

When a Statute is made to Redress Covin, or an Inconvenience which was at Common Law, altho it be penal, yet other Cases in the same mischief shall be taken by Equity of the Statute, as the Statute of the 16 *R.* 2. *c.* 5. of *Premunire* enacts, that if a man Sue for any thing in the Court of *Rome*, or else-where, for which he may have remedy in the Court of the King, he shall lose his Land, &c. In this Case, if a man Sue at the Court of *Rome* for that, for which he may have remedy in the Bishops Court in *England*, he shall be within the said Statute, and yet the said Statute speaketh of the Court of *Rome*, as appears, *Premunire Br.* 9. 9 *E.* 4. 3. *per Yelverton*, who said, that in the King's Bench it has often been the Opinion, that if a Clerk sue another in the Court of *Rome* for a thing Spiritual, where he may have remedy in this Realm, in the Court of the Ordinary, that he is in the Case of the Statute. The Statute

de

de Religiosis, is that a recovery by the Defendant shall be Mortmain, and the Recovery by Reddition, Confession, or Action tried, is taken by Equity, by *Genney*, which is not decided, and so of Rent or Common, which is neither Land nor Tenement, by *Lacon*, which is not denied, 3 E. 4. 14. *Vide Montague* in the Case of *Wimbish*. Com. 59. That the Statute which comes to redress *Covin* and *Fraud*, shall be taken by Equity, altho it be not within the words of the Statute, and a Statute that is for the Redressing a general Mischief may be taken by Equity. by *Horton*. Parl. Br. 13. 19.

The Justices ought to take notice of a general Pardon given by Parliament, and allow it to the Party upon his Arraignment, altho the Party do not plead it, unless there be an Exception in the Pardon so given, for in such Case he ought to shew, that he is not one of them that is excepted, 27 H. 8. 7. for the former and the latter, 8 E. 4. 7. *Charter of Pardon*, Br. 46.

The King shall not be bound by a Statute, unless he be expressly named in it, by *Prisot*, and *Ashton*, as in a *Quare*

Impe-

Impedit. Altho the six Months are elapsed, the King shall not be bound, but shall have a *Quare Impedit*; so if the King usurp on an Infant, this shall put him out of Possession, notwithstanding the Statute of *Westm.* 2 *c.* 5. which aids an Infant against a common Person. 35 *H.* 6. 62, 63.

A Man is attainted of Treason, and after the King gives his Lands to a stranger, and then he commits a Trepass on the Land, and after this he is restored by Parliament, and the Attainder is annulled, as if there had been no such Attainder, he shall not be punished for that Trespass. *Vide* Trespass *Br.* 425. 10 *H.* 7. adjudged; *Vide* 4 *H.* 7. 10. But if a Daughter, or other collateral Heir enter, and take the Profits, and after the next Heir is born, as a Son; he shall not have remedy for the outing of the Incumbent, nor shall have an account for the mean Profits. 9 *H.* 6. 13.

Note, if a man is attainted of Treason by Act of Parliament, all his Lands, Goods and Chattels are forfeited to the Crown, altho it be not so said in the Act it self: by *Townsend Justice*.

By

By the Common Law, if a man be attainted by Parliament of Treason or Felony, yet the Land is not in the Crown, before it be so found by Office, if it had not been so ordered by the Statute, 33 *H.* 8. *c.* 20, which gives possession in such case to the King without any Office; yet where a Tenant of the King dies without Heir, there the Free-hold shall be in the King without Office, for that the Free-hold cannot be in suspence. 9 *H.* 7. 2 *Dyer* 486. *Com.* 486, 229.

An Act of Parliament in the Affirmative shall not alter the Common Law, as a man recovering Debt or Damages, does not sue Execution within the year he was put at the Common Law to his new Original, for he should not have had a *Scire Facias* before the Statute of *Westm.* 2. *c.* 45. *de his quæ recordata sunt*, which gives a *Scire Facias* in such case, yet the party that recovers, may have a Writ of Debt after this Recovery, for that the said Statute is the affirmative, 39 *H.* 6. 3.

The Statute of 42 *E.* 3. *c.* 11. ordaineth, that four dayes before the Assize, the Pannel of the Assize shall be arrayed,

yet two dayes before the Assize it is sufficient to array the Pannel in Assizes, for that the Statute is in the affirmative, 43 *Lib. Ass.* 22.

It is enacted by Parliament, that *A. B.* shall be restored, and that he may enter, yet he shall not enter upon the King, if it be not so enacted by Statute, that he may enter as well upon the King, as upon a Common Person. 4 E. 4. 22, 23.

At a Parliament holden by Adjournment, 38 H. 8. it was admitted, that if a Burgess of Parliament was made Mayor of a Town that had Judicial Jurisdiction, and the other is sick, that those are sufficient Reasons to choose others; and so they did by Writ of the King out of Chancery, that contained this matter, that it was admitted in the Commons House of Parliament. *Par. Br.* 7. 38 H. 8.

Note, A Statute or Act of Parliament shall not be proclaimed, for the Parliament represents the Body of the whole Realm, for there are Knights, and Burgesses of every County and Town, 39 E. 3. 7. But otherwise where it is ordained by the Act, that it shall be proclaimed, as the Statute of Labourers,

23 H.

23 *H.* 6. *c.* 13. And the Statutes of Maintenance, Champerty, Imbracery, and Reteiners, 32 *H.* 8. *c.* 9. are ordained to be proclaimed.

A private Act of Parliament shall not conclude men, as a general Act shall; neither are strangers to it bound to take any notice, as Privies are, by 37 *H.* 6. 15. 13 *E.* 4. 8. *Office de Court, Br.* 27.

Where the matter is against Reason, and the Party has no Remedy by the Common Law, he may sue for Remedy in Parliament, 37 *Lib. Ass.* 7.

A man was restored by Parliament to Land that was forfeited, and had a Writ directed to the Escheator to put him into Possession, and he returns, that he was disturbed in making Execution, by *A. B.* who came, and said, that he had not notice of the Restitution, and by the Justices he is excused till he had notice, and the Reason, as it seems is, for that it is a particular Act, 43 *Lib. Ass.* 29.

The Crown of *England*, and the Preheminence thereof, by Parliament, with all Prerogatives belonging to it, was given

...on to *H.* 7. in Tayle, this extends not ... Liberties and Franchiſes of others. ... *H.* 7. 13.

The King and the Lords aſſent, that ... *B.* ſhall be attainted, and loſe his ... Land, and becauſe it did not appear by ... Act, that the Commons aſſented, ... therefore adjudged by all the Juſtices, ... it was no Act of Parliament: where-upon the party was reſtored, 4 *H.* 7. 10.

Note. By the ſame Reaſon, that ... Queen by her abſolute Authority ... commit a man to Priſon, and to ... there during Pleaſure, as appears, ... *Stanford*, 72. ſo alſo by her Proclamati-on ſhe may ordain, that if any one do ... againſt the Content of that Procla-mation, that he ſhall be impriſoned, and ... 42 *Lib. Aſſ.* 5. where a Commiſ-ſion iſſuing out of Chancery to ſeiſe the Goods of *A.* and his Body without other proceſs, the Suit was awarded void.

Note, The Queen may by Proclama-tion inhibit, that her Subject ſhall not go out of the Realm, upon pain to make fine for the Contempt if he go, *&c. Fitzh. Nat. Br.* 85.

T. in-

T. infeoffs *W.* and *A.* his Wife in Tail, and after it was enacted by Parliament, that all Eſtates made by *T.* to *W.* ſhall be void; yet by *Fineax* and *Brian* Chief Juſtice, this is void, as well to the Wife as to the Husband, for they are but one Perſon in Law, and the Wife cannot take but by the Husband; But if an Eſtate had been made to *J.* and to another Man, and all Eſtates made to *J.* are enacted by Parliament to be void; there the Eſtate is good for a Moiety to the other man, and with this agreed *Vaviſor*, yet others are of a contrary Opinion 5 *H.* 7. 34. *Dyer.* 331, 332.

Note, that it was agreed by the Juſtices, that the Statute of Additions, made in *Anno* 1 *H.* 5. *c.* 5. ſhall bind the King as to Indictments and ſuch like, as well as common Perſons. 5 *E.* 4. 32. *Cam.* 236. But ſee there, that an Indictment is ſpecially mentioned, which is at the King's Suit, and ſo is as a Name in the Statute.

See in the Book of *Bracton*, about a Parliament holden by a Lieutenant, or by a Protector, or by a Deputy, and the

the like; See 8 *H.* 5. *c.* 1. whereby it is enacted, that Parliament Writs being awarded in the name of the King's Lieutenant, shall not be staid upon the King's Return into *England*, neither shall the Parliament be dissolved.

An Act of Parliament in the time of *H.* 6. was made, whereby all Corporations and Licenses granted by that King were made void: It was held, that this Act must be pleaded Certain, and the Court is not bound to take Conniſance of them no more than of a particular Act for a particular Person, for this Act is not general, but particular in a generality, That all Corporations, *&c.* or that all Lords, or all Bishops shall have such a Thing, *&c.* But where an Act is general, and extends to every Man, this ought to be pleaded. 13 *Eliz.* 4. 8.

A particular Act was made, that the Chancellor calling to him a Justice, may award a *Subpœna* against *A.* and *B.* and make Fine of the matter; there all the Justices besides *Littleton*, would not award a *Subpœna* General, but a Special one, making mention of the Act, for

a

a particular Act shall be taken strictly, and a general Act for the Publick Good shall be construed largely. 14 *Eliz. c.* 4.

Every one shall be bound by an Act of Parliament, if his Right be not saved, for every one is privy to an Act of Parliament. 21 *H.* 7. 4. by *Vavisor.*

The Statute gives a Writ of *Præmunire*, &c. Yet one may have a Bill in the King's Bench, in *Custodia Marischalli*, 2 *R.* 3. 17. and the Statute of 1 *R.* 2. *c.* 12. gives a Writ of Debt against the Jaylor, and yet the Party may have a Bill upon the Escape against him. *Com.* 35.

If the King be intitled to the Land of *J. S.* by forfeiture for Treason, or Felony, by Act of Parliament, or Office, by this all Tenures are determined, as well of the King as of all others, and then if this Land be afterward given to another, by another Act of Parliament (saving to others all Rights, Interests, Titles, Rents, Service, and the like, as if no such Act had been made) there the Seigniories and the like, are revived, as no Seigniory was in *esse* at the time of the second Act made, and so there are

no

Words of giving, nor of reviving, Words of saving, which serve not to save that which is in *esse* at the of saving, *&c.* But such *Proviso* in first Act may serve, for it comes the Act, that invites the King, and the King is invited to Land by Office, Escheat, and after it is enacted by liament, that the King shall enjoy it, to all others their Seigniories and dreds, there such saving will not for the Reason aforesaid, for all extinct before by Office, and no- was in *esse* at the time of the sa- *&c.* 27 *H.* 8. *Parliament. Br.* 77.

Note, If an Act be general, *viz.* where it speaks as well within Franchise, without, this shall bind a County Pa- 19 *H.* 6. 12. by *Hoddy.*

Note, Those Words that destroy and Member in Statutes, are in- ded of Felony, as the Statute of *m.* 2. *c.* 34. where a Man ravished a woman espoused, or Damsel, that af- and not before or after, he shall have dgment of Life and Member; which ords have always been taken to be lony, without the word Felony men-

tioned

tioned in a Statute; and ſo the Sta... *de fraugentibus Priſonam.* 1 E. 2. Co... *Br.* 204. 9 E. 4. 20.

If a Felon be pardoned by Parliamen... and pleads not Guilty, he ſhall not ha... a Writ of Conſpiracy, for the Felon... was gone before by the Pardon. Fit... *Nat. Br.* in the Writ of Conſpira... there.

In a Replevin, the Defendant juſtifi... as under Sheriff of *London*, by a Fi... *facias*, to levy the Expences of t... Knights of Parliament, amounting to ... And every Hundred was put in certa... and *W.* one of the Towns of ſuch ... Hundred, was rated 10 *l.* and he, as u... der Sheriff, took the Cattel in the To... in ſuch a Place, and the ſame Beaſts ... ſold, and paid the Knights, and ... avows, *&c.* And there by the Court, ... may take the Arms of a Man for t... Duty of the whole Town; and th... thoſe Boroughs which ſend Burgeſſes ... Parliament, ſhall not pay to the Expe... ces of the Knights of the County, un... there be a Preſcription, *That the I... nants of the Ancient Poſſeſſions of L... of Parliament*, have paid towards t...

pences of Knights of Counties; But the Lords purchase Lands *de novo*, that are lyable to those Expences) there the Tenants must pay. 11 *H.* 4. 2.

The Villains of Lords of Parliament, that come to Parliament, shall not be contributory to the Wages of Knights of the County, that come to Parliament, but the Lords shall have Letters in their own names, directed to the Sheriff, commanding him, not to distrain their Villains, *&c. F. N. B. fol.* 229.

If there be divers Sessions in one Parliament, and the King signs not a Bill till the last, there all is but one and the same day, and all shall have Relation to the first day of the first Session, and the first day and the last are but one Parliament, and one and the same day, unless special mention be made in the Bill when it shall take its force; but every Session, wherein the King signs a Bill, is a day by it self, and one Parliament by it self, and shall have no other Relation, but to the same Session. 11 *H.* 8. *Parliament. Br.* 86.

Note, If a Man in pleading alledge a Statute, and misrecites it in the Matter,

or in the Year, Day, or Place, the other Party may demurr generally, because there is no such Law; for every one that alledges a Statute, ought to recite the Law truly, but in the Kings case it may be amended, and this in another Term, otherwise in the case of a common Person. 33 H. 8 *Parliament. Br.* 87.

A Man cannot prescribe against a Statute, as in Trespass, the Defendant prescribed to distrain for Tenure upon the Land holden, and to carry the distress to *D.* in another County, whereupon he was condemned, for the Statute is, that a man shall not take a distress in one County, and carry it into another. *Marlebr.* 4. and *W.* 1. *c.* 16. 30 *Lib. Assis. Pl.* 38. Prescription *Br.* 50. And yet, if a man hold Land in one County, of a Mannor that is in another County, he may distrain for Rent, or Services of the same Land, and carry the distress where the Mannor is, and impound it there. 1 H. 6. 4. *Vide* Prescription. *Fitz.* 58. 8 H. 3. *&c.* 6 H. 8 *Rot.* 351.

Ass. was awarded of Damages for the Plaintiff upon Certificat of the Bishop, that the Tenant was a Bastard, and the Par-

Parliament wrote to the Justices of Assize to cease, and yet they proceeded; whereupon the Chancellour reversed this Judgment before the Council, and adjudged it in the same manner as it was upon the Certificat, *&c.* And then remitted it to the Justices of Assize, that had proceeded, and given Judgment for the Plaintiff, for that the Bishop had certified the Tenant to be a Bastard; and they took no notice of the Reversal before the Council, for that is not a place where a Judgment ought to be reversed. 39 E. 3. 14.

Note, After Judgments given in the Court of the King, the Parties and their Heirs shall continue in possession till the Judgment be avoided by Attaint, or by Error, as it hath been used by the Laws in the time of the Kings Progenitors. 4 H. 4. c. 23.

The Parliament may take Recognizances, whilst it is sitting, *viz.* the Upper House, 1 *H.* 7. 20. and so it seems may the Lower House, *Recogn. Br.* 8. *Parl. Br.* 92.

Note, That it hath been often found, that *Wales*, and the Counties Palatines that did not come to Parliament, should not be bound by the Parliament of *England*,

Land, for Ancient Demeſn is a good Plea in an Action of Waſte, given by the Statute, and yet Ancient Demeſn is not excepted; and it is enacted, 2 E. 6. c. 28. that Fines with Proclamations ſhall be in *Cheſter*, for the former Statutes do not extend to it, and it is enacted, that Fines with Proclamation ſhall be likewiſe in *Lancaſter*, 37 H. 8. *c.* 19. and Proclamation upon an Exigent is given by Statute, in *Cheſter*, and in *Wales*, 1 E. 6. *c.* 10. and ſuch another Act of *Lancaſter*, 5 & 6 E. 6. *c.* 26. And the Statute of Juſtices of Peace ſhall not extend to *Wales*, nor to a County *Palatine*, and therefore an Act is made for *Cheſter* and *Wales*, 27 H. 8. *c.* 5. But ſee *Tit.* County *Palatine*, 17. & 20. that any Act ſhall extend to a County *Palatine*, 8 H. 6. *c.* 34. See above, the Act for Knights and Burgeſſes of the ſaid County *Palatine* to come to Parliament, &c. 34 H. 8. *c.* 13.

The Wife of a Duke, Earl, Baron, and ſuch as being married, or Widows, in Caſe of Felony and Treaſon, ſhall be tried by their Peers, as her Husband ſhall be tried. *per* 20 H. 6. *c.* 11. *Staunf.* 153. But if her Husband cannot have ſuch Tryal, the Wife ſhall not; and if after the death of the Husband, ſhe mar-

marries an Esquire or Knight, she loses her Dignity in Law. *Dyer* 79.

An Attachment is not grantable by the Common Law, Statute Law, Custom, or Precedent, against a Lord of Parliament, and the Lord *Cromwel* by order in the Parliament Chamber was discharg'd of such Process, *Dyer*, 316.

See Debt, for 100 *l.* brought by *I. Buckley*, Knight, against *Richard Thomas* of *Lanuaire*, upon the Statute of 23 H. 6. for that he was chosen Knight for the County of *Anglesey* in *Wales*, which said *R. T.* being Sheriff of that County, did not return him accordingly, where it was argu'd, that the Statute did not extend to *Wales*, as to give the forfeiture aforesaid to the Knight chosen, and not returned; And yet it was adjudged, that the Plaintiff should recover, because the Statute 27 H. 6. enacts, that the Country, and Dominion of *Wales* shall be, stand, and continue for ever incorporated, united, and annexed to and with the Realm of *England*, and that every Person born, or after to be born in the said Country or Dominion of *Wales*, shall have, enjoy, and inherit all and every Liberties, Franchises, Rights, Privileges, and Laws,

within this Realm, and other Dominions of the King, as other Kings Subjects naturally born within the same, have had and have enjoyed. *Com.* 120.

If a man speaks slanderous words of the Queen, and is not punished within the time given by the Statute of 23 *Eliz. c.* 2. he shall be punished by the Statute of *Westm.* 1. *viz.* shall be imprisoned untill he find the Person that spake, *&c.* according to the Statute, *W.* 1. *cap.* 33. and not according to the advice of the Council, for that is when the slander touches the Nobles and great Officers, expressed in the Statutes made 2 *R.* 2. *c.* 5. *&* 12 *R.* 2. *c.* 11. and not the King, for he is a Person exempted, and not implyed in those words of great Men and Nobles. *Dyer*, 155.

In a *Præmunire* against a Lord of Parliament, he ought to appear in his proper Person, and not by Atturney, unless he has a special Writ of Chancery. 14 H. 4. 14. 9 E. 4. 2.

Note, that in *January*, 38 H. 8. *Henry Howard*, Earl of *Surrey*, Son and Heir Apparent of *Thomas* Duke of *Norfolk*, was attainted of high Treason for joyning the Arms of *England*, before the Con-

Conqueſt, and other Arms after, to his own Arms, and other pretences againſt the Prince, and he was tried by Knights and Gentlemen, and not by Lords, nor by Peers of the Kingdom, for that he was not an Earl by Creation but by Birth, as Heir Apparent of a Duke, who was inveſted with the dignity in Law, for if it had been a Dignity by Creation, and a Lord of Parliament, he ſhould have been tried by his Peers. 38 H. 8. Treaſon, *Br.* 2.

A Statute in the Affirmative doth not alter the Common Law. *Dier.* 50.

Every Seſſion is as a Parliament. *Dyer, Fol.* 203.

Note, An attaint by Parliament, ſhall have Relation to the firſt day of Parliament, as to the forfeiture of the Lands of the Offender, unleſs it be ſpecified in the Act, that the forfeiture ſhall relate to the day when the Treaſon was committed. *Relation*, 43. 35. H. 8.

Note, That in every Caſe of Treaſon or Felony newly made by Statute, the Lords of Parliament ſhall have their Tryal by their Peers, notwithſtanding that the Statute does not provide for it by expreſs Words; ſo that the Proviſo

inserted for their Tryal in such Cases in the Statute is an abundance. *per Stamford*, 153. And Tryal *per pares* is given by *Magna Charta*, *cap.* 9. *Stamford*, 152.

Note, That in Cases of misprision of Treason, or Felony, Lords of Parliament shall be tried by their Peers.

Note, That a Statute was made *Anno Domini* 1296. by the King and his Barons, *Clero excluso*; and this was at a Parliament holden at St. *Edmundsbury*, in the Reign of *Ed.* 1. as *Jewel* Bishop of *Sarum*, against *Harding*, *fol.* 620, reporteth; And in a Province at *Merton*, in the time of *H.* 3. 1273, where the matter was moved touching Basterdy, for the Legitimation of those that were born before Marriage, and it is said, that the Statute passed intirely with the Lords Temporal without the Clergy; but it seems that it is no Statute, but an affirmance of the Common Law, which the Lords said, that they would not alter. see 11 *R.* 2. *cap.* 9.

A man attainted of Felony or Treason, shall not be restored in Blood without Parliament. *Restitution. Br. p.* 37. 3 *E.* 6.

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In a *Homine Replegiando* the Sheriff returnes, that the Defendant had eloigned the Body, so that he could not make deliverance, *&c.* then the Plaintiff shall have a *Capias in Withernam*, to take the Body of the Defendant, and detain him, *&c.* untill, *&c.* be he either a Peer of the Realm, or other Common Person, and if the Sheriff return, *Non est inventus*, upon this *Capias* in *Withernam*, of the Body, then the Plaintiff shall have a *Withernam* of the Goods of the Defendant. *F. Nat. Brevium* 68. 11 *H.* 4. 15.

R. E. brought a Writ of Chancery, and of the Privy-Seal, to be discharged of serving in Juries and Assizes, for that he was a Baron, and therefore ought not to be sworn in *Ass.* against his own Will, and it was questioned whether he held by Barony, to come to Parliament as a Baron, and he said, that he held by one part of a Barony, and that he and his Ancestors have used to hold so time out of mind; and after upon good Advise he was altogether discharged. *Exemption. Br.* 3. 46 *E.* 3. 30.

When an Errour is sued in Parliament, committed in the Kings Bench, a *Scire facias* shall issue forth to the Par-

ty to answer at the next Parliament; and by *Hankford*, in Errour sued there, it is said, that the Record must remain with the Justices, and they send a transcript of it thither, *&c. Error. Fitz.* 18. 8 *H.* 5. and *Dier* 375, the Record it self, and a Transcript of it, was brought into Parliament to be examined, and the Transcript was left there.

Bagot was made a *Denizen* by *H.* 6. and after, by a Parliament in the time of *Ed.* 4. All Acts done by *H.* 6. are repealed and annulled, yet *B.* continues a Denizen, for that he was made once a Denizen, and there must be a special Act to annull that Denizenship. *Denizen. Fitzh.* 1. 9 *E.* 4.

Note, If a Peer of the Realm, or Lord of Parliament, be Demandant, or Plaintiff, Tenant or Defendant, there must two Knights be returned of his Jury, or else the Array may be quashed; as appears in an Assize betwixt the Earl of *D.* and *Newdigate. Com.* 117. Challenge, *Fitzh.* 115. 13 *E.* 3. and *Dier*, 107. *Vide Dyer.* 318. where the Defendant was proclaimed Earl of *Kent*, by Descent, pending the Writ, and after the Earl challenged the Array, for that he was

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an Earl, and no Knight returned in the Pannel, and it was not allowed, for the admittance of both Parties is to the contrary, and no default in the Sheriff, for he had no notice of such estate of either Parties; and note, *Dier* 246. If there are divers Defendants, whereof one is a Lord of Parliament, and the Array is challenged for the Cause before, this shall serve to quash all the Array against the other Defendants also, for that it is intire.

The Statute of 4 H. 7. of Fines is penal, because the Right shall be bound, if he comes not in within five years after the Title accrued, and for that the Statute is very beneficial for the repose and quiet of Land in Possession of the Subject, it shall be largely expounded, and therefore, if the time Commence in the Father, which is a stranger to the Fine, to make claim within the five years, and after he dies, within the five years, his Issue, that is within Age, shall be bound to pursue the rest of the five years commenced in the Life of his Father; as it is adjudged in the Case of *Zouch* and *Stowell*: *Com. Fol.* 375. And a Corporation, as Mayor and Communalty, that have an absolute Estate,

shall

ſhall be bound, if they do not make claim within five years after the Title accrued; and yet the Statute of 4 H. 7. of Fines, makes no mention of Corporations, or Bodies politick, but yet are Parties within the intent of the Statute. *Com.* 538. Otherwiſe it is of a Perſon of the Church, and a Biſhop, becauſe they have not an abſolute Eſtate. *Ibidem.*

Chaplains, that are Maſters of Chancery, and are attendant on the Parliament, ſhall not be Contributory (by reaſon of their Benefices) to the expences of Proctors made by the Clergy, that come to Parliament, and if they be, they ſhall have a Writ to the Arch-deacon and his Officers, for the diſcharging them, and upon that there ſhall be an *Alias*, and *Pluries*, and *Attachment* againſt them: which Writ appears in *Fitzh. Nat: Brevium*, 229. and by the Writ it appears there, that this is given by the Statute of *Weſtminſter. Priviledge. Br.* 56.

Lord and Tenant, and the Tenant is attainted of Treaſon by Parliament, and it is ordained by it, that he ſhall forfeit all his Lands, and after is pardoned and reſtored by another Parliament,

Ha-

Habendum sibi, & Hæredibus suis, as if there were no such Attainder, now he shall hold of the common Person as before, and yet once the Tenure was extinct by the forfeiture of the Land to the King. 21 H. 8. Tenures. *Br.* 70. *Vide, Parliament Br.* 77. What words in an Act will revive Seignioties, which were before extinguished, and that it is no good Case; And see *Stamford.* 197. That if the King infeoff an estranger of them, it ought to revive the mesn Seigniory, which was before the Attainder, *Tenendum* of the mesn Lord, as it was before the Attainder. *Vide* Petition *F.* 19 H. 4. 6 *Edw.* 3. For this excellent Case, *Vide Dyer* 313. where the saving of a Seigniory in a Statute is not good.

When a Statute gives a forfeiture to the King, and to the Party griev'd, as where a man is prejudic'd by Perjury, or by a fraudulent conveyance of Land or Goods, to defraud the Action or Suit of Creditors, and such like, there none shall have the Suit upon the Statute but the King, or the Party that has receiv'd Loss thereby.

Otherwise it is, if the Statute says, that the King shall have a Moiety, and he

he that ſhall inform ſhall have the other Moiety (without mentioning the Party grieved.) And if the King commenceth the Suit before an Information of the Party, in this Caſe the King ſhall have all the Forfeiture, and he may, before the Suit of the Informer, releaſe to the Party offending, and by it every other Perſon is excluded. 1 H. 7. 19.

The Statute of 21 H. 8. *c.* 13. is, If a Parſon take another Benefice beyond the yearly value of 8 *l.* without a Qualification, the firſt Benefice is void; This value ſhall not be taken as the Parſonage is valued in the Book of firſt-Fruits, but as it is valued in deed. *Dyer*, 237.

The Statute 21 H. 8. *c.* 13. ſays, that no Parſon of a Church, or ſuch Spiritual Man, ſhall take a Leaſe for years, for Life, or at Will, *&c.* upon pain of forfeiture for every Month that he ſhall occupy it, 10 *l.* to the King and Informer; But note, that the Leaſe is not made void by the ſaid Statute, as it has been ruled. *Dyer*, 358.

Note, no man can make Proclamation but by Authority of the King, as Mayors, and ſuch like, as have privileges in Cities and Boroughs ſo to do, or

have

have it by Custom; And therefore where an Executor made Proclamations in certain Market Towns, that the Creditors should come by a certain day, and claim, and prove their Debts due by the Testator, and because he did this without Authority, he was committed to the *Fleet*, and fined. 22 H. *Br.* 8. 10.

Note, a Man shall not be made a Bastard after the death of his Father and Mother, because the marriage is determined, and if a Commissary after their death find such Case of Divorce, and after such Divorce being made, after the death of one of the Parties, this shall never Bastardize the Issue; and so it was taken in Parliament. 24 *H.* 8. *Bastard. Br.* 23. 39. *c.* 3. 32.

Note, If a man gives Lands to one, and his Heirs Males, in this Case his Heirs Females shall also inherit; and this was also adjudged in Parliament, as *Thorpe* said, 18 *La. p.* 5.

Note, It was written *Tybinry-broke*, in a Writ of Cosinage, and in the *Habere facias Visum*, the Writ was *Tybinry* without *Broke*, and it was demanded of the King's Council, by *S. H. Green* and *Thorpe*, Justices, whether this word may

be

be amended by the Statute of 14 E. 3. c. 6. which enacts, that the Justices may amend a Syllable or Letter, which is found too little or too much; and one of the Council answer'd, that it was a needless Question of them, whether it may be amended, for he said, that it may be well amended, be it a Syllable or a Letter, without which the Word cannot subsist, and no difference. 40 E. 3. 34. And so see the Justices demanded the intent of the makers of the Statute, of those that were of the King's Council.

Note, A Fifteenth is granted by Parliament, and it is well known by the Exchequer Roll how much every Town in *England* shall pay at every *Quinzim* granted. *Br.* 9. 34 *H.* 8. And if the Tenants pay for their Goods, the Lord shall not pay towards the Fifteen out of the Rents of the Lands that they occupy and enjoy. 7 *H.* 4. 33. 11 *H.* 4. 46.

A Town is charged upon a fifteen granted, at the sum of 4 *l.* and one of the Town by the Kings Charter is discharged of the fifteen in the same Town, so much as amounts to his part shall be recounted in the said 4 *l.* and the Town

shall

shall be charged of the rest. *Per Curiam*, 19 H. 6. 63.

Note, A Bishop has a Mannor within which are Tenements by the Verge, by Copy of Court Roll; which Copy-holds, time out of Mind, have been taxed within the same manner to the Wages of the Knights of Parliament, and a good Prescription, altho the Lord come to Parliament, and is charged for his Spiritual Possessions for the Dismes or Tenths among the Clergy. *Vide Auow. Fitzh.* 260. & R. 2. according.

One is taxed for the *Fifteenth* in his Land, and when he perceived that the Collector was coming to distrain for the 15th; that is to say, for his part that he was to pay towards the 15th, he drove his Cattel out of the same Land, before the Collector could take them: he cannot pursue: by *Brian*. So for damage feasant, 19 E. 4. 10. otherwise it is for Rent-service. 44 E. 3. 20.

At the time of a 15th granted to the King, *A.* who lives in *W.* has Corn growing in *C.* and before the Assessment, he reaps and carries it to *W.* it shall be lyable for the goods in *W.* and not in *C.* and in a Replevin the Issue shall be, If

at

at the time of the Assessation of the 15th the Corn were remaining in C. or at *W.* 21 *E.* 3. 42.

Note, The Fifteenth at this day is levied by Rods of Land most commonly, and in some places upon their Goods. *Quinz. Br.* 9. 34 *H.* 8.

Note, That where the Abby of Saint *Edmundsbury* was founded by the King's Progenitors, and exempted from all Episcopal Jurisdiction, so that no Ordinary could Visit there, contrary to the Foundation, and Ordinance aforesaid; upon a difference that was between *A.* Bishop of *Norwich*, and *B.* Abbot of *Bury*, concerning that Exemption; It was Ordained at a Parliament of *William* the Conquerour, held such a Year (by the Arch-bishop of *Canterbury*, and all other Bishops of the Realm, and by the Earls and Barons) that for the time to come, neither the Bishop of *Norwich*, nor any of his Successors, should act contrary to the Points of the Exemption and Foundation aboveſaid; and that he that shall be Bishop, shall pay to the King or his Heirs thirty Talents of Gold; and for that the Bishop of *Norwich* that now is, has gone

gone contrary to this Ordinance of the King, a Contempt was iſſued againſt him, and the Biſhop pleaded Not Guilty, and was found Guilty; whereupon it was awarded, That the Biſhop's Temporalities ſhall be ſeized into the King's Hands, and that the King ſhall recover the ſaid Sum of Money. 21 E. 3. 60.

Note, Thoſe of *Ireland* are bound by the Statute of *England* for their Goods, if the Statute gives forfeiture of Goods, for doing a thing contrary to the Statute, but not for Land, or any thing touching Land there. 2 *R.* 3. *fol.* 12. And yet thoſe of *Ireland*, do not ſend any Lord, Knight, or Burgeſs to the Parliament of *England*, for they have a Parliament of their own when the King pleaſeth. *Vide* Action upon the Statute, *Fitzh.* 1. and 11 *H.* 6. where *Huſſey* Chief Juſtice ſaid, that the Statutes of *England* bind thoſe of *Ireland*, which was not much denied by the other Juſtices at that time, altho the Term before ſome were of a contrary Opinion. *Vide* 20 *H.* 6. 9. That thoſe of *Ireland* are not bound by the Statutes of *England*, as if Tenths be granted by the Parliament of *England*, thoſe of *Ireland* are not bound, becauſe they are not ſum-

ſummoned to the Parliament of *England*.

Vide, Fitzh. Nat. Brevium 22. Error in the Kings-Bench of *Ireland*, reverſed in the Kings-Bench of *England*. *Aſſiſ. Fitzh.* 328.

Vide Dier, 360. A Lord of *Ireland* ſhall not be tried in *England* for Treaſon done in *Ireland*, nor by his Peers, nor by Jury, becauſe he is a Subject of *Ireland*; And *England* and *Ireland* have ſeveral Seals; whereby it appeareth, that the Laws of *England* ſhall not bind thoſe of *Ireland* for their Land. *Dier*, 303. A man has Goods in *England*, and other Goods in *Ireland*, and dies inteſtate in *England*, and the Inteſtate has an Obligation of a Merchant that dwells in *Ireland*, which Obligation was in *England*, when he died, and the Son of the Inteſtate obtains the Adminiſtration of the Biſhop of *Dublin* for the Goods there, and the Wife of the Inteſtate of the Goods in *England*, of the Arch-Biſhop of *Canterbury* within his Province, the Son releaſeth to the Obligor in *Ireland*, and is Debt by the Wife of the Inteſtate, who has the Obligation in her Hand. This Releaſe was pleaded, and the iſſue taken was, whether the Obligation was in

Eng-

England or in *Ireland*, when the Obligee died. Out of which it may be collected, that the Arch-Bishop of *Canterbury* had to do with it, and not the Bishop of *Dublin*. *Dier* 305.

Vide p. 16. *El. Ro.* 436. *Lanc.* A Writ of Accompt was brought by *Steven Pinde*, by his Guardian assigned by the Court, after that he was of the Age of fourteen years, and before twenty one years, for the profits of Land in *Gavelkind*, received by *Giles Frankling* Defendant, Guardian of the said *Pinde* Plaintiff, before fourteen years, and yet the Statute is, *Cum ad ætatem, &c.* and this is intended one and twenty years. *Vide* 29 E. 3. 3. Accompt for Land in *Gavelkind* after that the Heir came to fifteen years.

A man has Restitution by Act of Parliament, and a Writ of *Ouster le main* issued forth to the Escheator, and the Tenant that had the Land, upon a Traverse by him tendered, made *Rescous*: If he had not notice of this Restitution, he shall not be punished by Fine for that *Rescous*, and the reason may be, for that it is a special Act. 43. *Lib. Ass.* 28.

Henric',

Henric', &c. *Vic.* Darby *salutem*; *Præcipimus tibi quod statim post receptionem præsentium in singulis locis infra Ballivas tuas, tam infra Libertates, quam extra, ubi magis expedire videris ex parte nostra solempniter, & publice Proclamation' fac' quædam Statuta, & Ordinationes per nos de Communi assensu Prælatorum, Magnatum, & Communit. Regni nostri in presenti Parliamenti nostri apud Westmonasterium pro communi utilitate totius Regni nostri prædicti, editi, & Provisi, quæ in quibusdam schedulis huic brevi nostro annex' per Latorem præsentium tibi mittimus, mandantes præterea quod immediate post Proclamationem sicut permitt. per te factas omnes & singul'. hujusmodi schædulas in separat' distinct', et public' locis, ut subditis et Ligeis nostris plenius apparere poterit, in Tabulis affigi, et poni similiter fac', et hoc sub periculo incumbente non omitti; Teste*, &c.

Note; That a special Bill against *J. P.* was put into Parliament, 33 *H.* 6. for Ravishing of a Woman, whereby it was ordained, that he come before the Lords within a certain day after the Proclamation made by the Sheriff of the County of *E.* after *Pentecost* next, and if he appeared not, then he should be attainted,

and

and pay a certain Sum to the Woman, and this Bill was exhibited to the Commons after *Pentecost*, which was within the time of Parliament, that begun 15 *H.* before; *Anno Prædict'*. And the Lords gave day to *J. P.* to appear after *Pentecost*, *Anno* 1457, which was 34 *H.6.* within a day certain after the Proclamation, and this Bill was not sent to the Commons, as it ought to have been, for that the Lords gave a longer time than the Commons gave, and after *J. P.* did not appear according to the Proclamation, whereupon he was taken, and sent into the King's-Bench, and there pleaded by his Counsel, that the Act was not an Act, for that the Lords had given a longer day, *ut supra*, and the Bill was transcribed upon a *Certiorari* in Chancery, and by *Mittimus* of Chancery under the Seal there, was sent to the Justices, and the Writ was, *Rex Justitiariis suis*, &c. *Transcriptum cujusdam billæ coram nobis in Cancellariam nostram in filacio*, &c. *exhibit'*, *& authoritate ultimi Parliamenti nostri*, &c. *Confirm: versus* J. P. *Vobis mittimus*, by which, *&c.* And altho it is not an Act of Parliament in Law, for that the Lords gave a longer time, *ut supra*, yet

yet the Clerk of Chancery made the Writ, which was confirm'd by Parliament, and it was not so in Truth; And *Fortescue*, in the Exchequer Chamber, seems, that it cannot be intended but that the Act is good, for that the King by his Writ certified the Justices, that the Bill was confirm'd by Parliament; But *Illingworth*, Chief Baron, said, that it shall not be taken for an Act of Parliament; for the writing of a Clerk of Chancery cannot make an Act of Parliament good, if it be vitious or void in it self; and after, *Fortescue* said, that this is an Act of Parliament, and he would be advised before he would make void an Act of Parliament, and so see, if a Certificat under the Seal of the Chancery of a Record there, shall be contradicted. *Vide Com.* 232. and 21 E. 3. 4. that a Man shall not have an Averment against a Certificat under the great Seal.

FINIS

THE OPINIONS

Of several

Learned Antiquaries,

VIZ.
- *Dodridge,*
- *Agar,*
- *Tate,*
- *Camden,*
- *Holland,*
- *Cotton,*
- *Selden.*

TOUCHING

The Antiquity, Power, Order, State, Persons, Manner, and Proceedings of the High Court of

PARLIAMENT IN ENGLAND.

LONDON,
Printed by *F. L.* for *Matt. Gilliflower,* at the *Spread Eagle and Crown* in *Westminster-Hall.* 1685.

The Opinions of ſeveral Learned Antiquaries, touching the Antiquity, Power, Order, State, Perſons, Manner and Proceedings of the High Court of Parliament in *England*.

Dodridge.

THere is no King in the World, nor Subjects of any King, that have a greater, and more binding, and yet a freer Council, than this our Parliament in *England*, whoſe general Acts, ſince all men muſt take notice of, it may profit any man to underſtand the Dignity, Order, and Antiquity thereof. Soveraignty, the higheſt degree of Honour, is imported in the very Summons: For the King alone (*Caire Regio*) as a

Flower of the Crown, hath the absolute power of calling and dissolving it. Order it self stands represented, when the Court is sitting, such is the Majesty of the Presence, the gravity of the persons, and their state in proceeding: but this being often seen, and so best known, and the other unknown to many that sit, and often see the order of this Court.

Therefore we will treat principally of the Antiquity of this high Court of Parliament. And first of the Appellation: The Word *Parliament*, some derive it from Peers, *quasi parium Conventus*; or as others say Parliament, *Quasi parium lamentum.*

Others more probably from the *French* word *Parler*, or that of the *Greek* παραλαλεῖν, to treat and confer freely. The *French* Histories say, that this name in this sense, began at the Assemblies of the Peers of *France*, *Anno Domini* 1200.

But it appeareth to be more Ancient with us than of that time: For *Ingulphus* who died *Anno* 1009. saith *in Publico nostro Parliamento, &c.* taking it there for a meeting, or Chapter of the Abbots.

Angelo King of *Polonia*, in *Polish* States calleth the Assembly *Generale Parliamentum.*

tum. This may raiſe a doubt of the former Etymology of it, from the *French* word *Parler.* But, no doubt, the word was brought into the Statiſts in the time of *Henry* the Firſt, to the general Council of the Kingdom.

But the like Aſſemblies as Parliaments being much more ancient than the Parliament, underwent theſe names of old times. The *Britains* called them *Keyfrithen*, becauſe Laws were therein made by the Engliſh *Saxons* in their *Engliſh Graduiſes*, a Council; ſometimes *Wittena motu*, a meeting of Wiſe men: ſometimes by the *Greek* word, *Synodus.* The *Latin* Authors of that age called it *Csncilium magnatum conventus Curiæ altiſſima preſentia Regis Prælatorum, Procerumque collectorum*; as appeareth by the Charter of *Withlaſſias*, *Anno* 833. and of King *Edgar*, *Anno* 966.

And now to ſtep *a nomine ad Rem*, before the time of Soveraignty, Natures Law directed men to the love of Society, and care to preſerve it, gained free conſent even of lawleſs men to admit of certain Cuſtomes as Laws, herehence framing matter of form for a Commonwealth.

But new ſpringing miſchiefs, remedileſs by the elder Cuſtomes, cauſeth, for remedy thereof, the calling of yearly Councils, the Original, no doubt, of our after Parliaments; and it ſhall appear that our Kingdom from as grounded authority as any other Nation, can prove of old the practice of thoſe great Aſſemblies, then called Councils, now Parliaments. Thoſe Sages, the *Druides*, moſt proper to this Iſle, had yearly Conventions of their nobleſt and beſt people, in a middle conſecrated plott of this Kingdom, puniſhing with proſcription from their Sacrifices, whoſo obeyed not thoſe general deſigns.

Before the *Romans* arrived in this Kingdome, *Caſſibulan* was before *Communi Concilio*, Chieftain of the *Britains* Forces; *Summa enim Imperii Bellique adminiſtrandi communi Concilio permiſſa eſt Caſſibulano.* The Ancient Laws of the *Britains* (which to the honour of our Common Laws have to their uſe to this day) were compoſed in their Common Councils; the multitude at that time, as poſſeſſed of nothing, had neither voice nor place; Uſury, Tribute, and Greatneſs, having made them ſervile to their betters.

And

And thus ſtood the State until by Conqueſt it was made a Province. So before our *Britains* learned the Laws of their Victors, they held their Common Councils. *Tacitus* ſeemeth to aſcribe much to the proſperous proceedings of the *Romans* againſt the *Britains*, *quod non in communi conſuluerunt*.

After the entry of the *Romans*, who with their People brought their Laws, their Councils were *Comitia*, as Parliaments compounded of the three degrees, (*Senatores*, *Equeſtres*, *Plæbi*) and termed *Curiata*, *Centuriata*, or *Tributa*, ſo called for that the people were divided *Per curias*; in which Aſſembly, *Populus Suffragia ferebat*; diſtinguiſhed by Seath ſummoned by the Lictor, held in the City had power to conſult of Peace and War, and to diſpoſe of the leſſer publick Offices.

Romulus was founder thereof, and nobler people were divided *per Centurias*; for this the Council fore-ſent by Edict, *quis dies comitiis*, *centurialis futurus eſt*, ſummoned *per Corni nicem*, aſſembled in *Campo martio*, becauſe all in Arms.

In this year were diſpoſed the greater Magiſtracies, and affairs of that. *Hoſtilius* was the Inſtitutor, *Tullie* gloried in that

he was recalled from *Eailege Centuriata Tributa*; For in this be people assembled by their Tribunes: Much agreeing with that of *Curiata*: And the *Leges peculiares* were general *Jussu populi, Regnante Magistrati*, but not in force, as Laws, until their promulgation, for which cause the Country Tribunes repaired to certain Fairs, where Proclamation was made of their new Laws, and holding it *æquum ut quisquam obligeretur quod sine culpa sua ignorat*; but these Freedoms of the people maimed as the Empire grew absolute.

And when that State declined, we (as other infranchized Countries) began to give Laws to our selves. Therefore the *Britains* told *Augustine*, *Se non posse absque suorum concensu, & licentia, priscis abdicare moribus*. And thus it stood in *Britain* until the coming of the *Saxons*. Now that substance and form of Parliamentary Assemblies, went all along the *Saxon* age, held during the incursion of the *Danes*, and was continued by the Conqueror in part. And when the assembly of the three Estates formed the Parliament (as now we keep it) it shall by clear proofs and presidents appear. The Story of the *Saxons* and their Laws do shew that they were of the same

mind,

mind, translated hither, as *Tacitus* saith the *Germans* were, *Nec legibus infinita Potestas de minoribus Rebus Principes consultant de majoribus omnes Rex Edwinus* (saith *Beda, lib. 2. cap. 13.*) *Quod antiquam fidem suscipere dixit se cum amicis Principibus & consiliariis suis collaturum.*

In a Charter of King *Ethereld*, it appeareth *quod ad Sinodale concilium apud Cirencheſter universi optimates simul convenerunt, & Astricum majestratis reum de hac patria profugum expulerunt. Bertholphus* held a Council at *Kingburn (Pro Regni negotiis congregatum)* to the which the west *Saxon* King, and people sent thither their Legate. *Ingulphus* hath many places of clear proof, but I will move but one: *In festo Nativitatis Beatæ Mariæ, cum universi magnatis Regni per Regium Edictum, Sommoniti tam Archiepiscopi, Episcopi Abbates & cleri, quam totius Regni Proceres, & optimates London convenerunt ad tractandum de Negotiis publicis totius Regni consumatis omnibus Rex Eldredus coram universis Domino Turketillo Abbati monachisque suis accercitis dedit Monasterium de Crowland, &c.*

Here you may see the sampler of our Parliament; but to come nearer, when King *Ina* established his Laws he saith, I *Ina* King of the West *Saxons*, have called

all my Fatherhood, Aldermen, and my wiſeſt Commons, with the Godly men of my Kingdom to conſult of great and weighty matters.

Here is preſented in King *Ina*, the Kings Royal perſon, the Fatherhood in thoſe Ancient times were thoſe whom we call Biſhops, and therefore we ſhould term Reverend Fathers.

By Aldermen the Nobility is meant. So honourable was the word Alderman in thoſe times, that only Noblemen were called Aldermen; by the wiſeſt Commons is ſignified the Knights and Burgeſſes; And ſo is the Kings Writ at this day: *De diſcretioribus & magis ſufficientibus.* By Godly men is meant the Convocation-houſe, for that it conſiſted only of Religious men; to conſult of great and weighty matters. So is the Kings writ, *pro quibus dam Arduis & urgentibus negotiis, nos ſtatum, & defenſionem Regni noſtri Angliæ, & Eccleſiæ Anglicanæ concernentibus.*

The like was in King *Alfreds* days, where the King, *Sancti Epiſcopi, & Sapientes laici Statuerunt leges*, calling the Statute Books *Libri Sinodales*, all their Laws going by way of ſuffrage general, according to the writ of our Parliament, Wherefore King *Offa* having gathered, *Concilia ſapi-*

apientum, the beſt Laws of *Ina* allured, and *Etheldred* would not publiſh them until ſuch time, (as the text ſaith) *oſtendenda hac omnibus ſapientibus nominis & dixerunt omnes placet cuſtodire ea.* But howſoever the Government was by ſundry Kings, and continually at interwar, the *Saxon* time held hardly one form of this their great Aſſembly or Council, yet in *Canutus* days, he having Conquered all, and reduced that Heptarchy into a Monarchy.

So that he could ſay, *Sicut in una lege univerſum Angliæ Regnum Regeretur.* It is plain that he held a Parliament, though not then ſo ſtiled, yet truly ſo to be accounted, and ſince it hath all parts of our Parliament, we might rightly call it ſo. In the preamble to his Laws thus he ſaith, *Convocato itaque Communi Procerum comitatu & Epiſcoporum abbatum & Cætiorum Nobilium. Nec non & cæteræ nobilitatis ſapientaque totius Angliæ conſilio Satagebat cora decreta & in quanta humana ratio voluit & Stabiliret.*

After this pious King *Edward* the Confeſſor, in a Charter made to *Weſtminſter*, for thus he ſaith; *hanc igitur Chartum Donationis & libertatis in dedicatione predict Eccleſiæ recitari niſi coram Epiſcopis Abbatis, comitibus & optimatibus Angliæ omnique populo audiente.*

But

But now to come to the *Normans* time after the Conqueſt, the two firſt Kings, the Conqueror and his Son *William Rufus*, Reigned with their Swords in their hands abſolutely of themſelves, not admitting the former general aſſemblies of the States. But permitting only Provincial Synods the Clergy for compounding of the Eccleſiaſtical cauſes; where nevertheleſs they ſit as preſidents. And the Conqueror himſelf did not challenge to himſelf, ſo abſolute a conqueſt; but the Laws that he made have this Title; *Hic intimatur quod Gulielmus Rex cum principibus ſuis conſtitutus.* And in giving Laws to this Nation: *Fecit ſumoniri per univerſos, Conſulatus Anglia Angos Nobiles & Sapientes ſua lege erudi'os ut coram & nira & conſuetudines ab ipſis Archiepiſcopis, & Epiſcopis audiret.*

And often doth he and his Son call *William, Archiepiſcopis, Epiſcopis, Abbates Comites, Baronies, Vicecomites, cum ſuis militibus ad Conſulendum.* And likewiſe oftentimes afterwards, until the time of *Henry* the firſt, we find that there were *Conventus Epiſcoporum, Abbatum & Procierum Regni Londini, in Palatio Regis*: Wherefore, *Pollidore Virgil*, and *Palladine* were much deceived if they thought that *Henry* the firſt's Parliament within this Realm; neither do they ſeem

to

to be of that opinion, their words being that *Reges ante tempora Henrici Primi, non consueverunt populi Conventum consultandi causa nisi per raro facere.*

Therefore they might hold some, though not so often as their Successors, or agreeing with the Manuscript of *Canturbury*.

That the first Parliament wherein the Commons were called, as well as the Peers and Nobles was 16 *H.* 1. for it is true that after the Conquest until this time, the Commons were not called; and so at this time they will have it first called by the name of Parliament, indeed if the policy of the time be noted that may yeild some difference. The strangers had no way to make permanent their Victory, but by adding other Laws, and plucking up the old roots of Families they found, and to plant them in themselves as in new grounds.

So for that age it was their wisdom to rule, and not to advise with the people. But *Henry* the first, a new budd of the old stock, being a natural *Englishman* himself, born at *Selby* in *Lincolnshire* in love of the *English* Nation to whom he ought his strength.

The *Normans* at that time standing at Terms of revolt from him in favour of his Brother

Brother *Robert* Duke of *Normandy*, he well underſtanding the love of his people, called them to his great Councils, and ſetling the Authority of this Court of Parliament, ſo Eſtabliſhed his Throne, that neither *Britain*, *Dane*, nor *Saxon* could ever after to this day diſturb either him or his poſterity, from the poſſeſſion of this Land; the making of his Laws were by act of Parliament: the Marriage of his Daughter *Mawde*; and the intailing of the Crown to her, were done by Act of Parliament.

The Accord made between *Stephen* and him, was made by Parliament. And conſequently all the ſucceeding Kings ſince, have ever concluded *Grandia Regni* only in the Parliament, yet all the times ſince have not kept the ſaid form of the Aſſembling of the three Eſtates. For ſometimes the principal of the Nobility were only called, and they, at the end of the Parliament were to impart to the other Barons and their Country, that was done in the Parliament. Afterwards King *John* ordained, that all the Barons of *England* ſhould come in their proper perſons to the Parliament, being Summoned. 20 Knights fees, after 20 *l.* a fee; going to the value of one entire County; 18 Knights fees making

king

ing an entire Baron, by which they ſat. But King *H.* 3. after he had ſmarted by the Tumultuation of the Barons, their multitudes bringing Confuſion, ordained that thoſe Earls and Barons, only to whom he directed his writ ſhould come unto the Parliament and none elſe. And this with *H.* 3. began his Son *Edward* the 1. the Founder of this our civil Eſtate, calling the Barons, and appointing the Knights and Burgeſſes to be elected, and of the Barons ſelected the wiſeſt, and ſuch as pleaſed him, and did omit them, and their Children, which did not equal them, and their Parents, in Wiſdome and Vertue: So held it until the time of *Edward* the 3. there being then a writ then in uſe, *De admittendo ſide dignos ad colloquium.*

Some alſo at that time called, as *William* Earl of *Nottingham*, to attend upon the King with 120 men at Arms, *Lawrence de Haſtings* Earl of *Pembroke*, with 120 at Arms, and ſo divers others. The calling was with diſtinction; the Biſhops and Barons, *De negotiis tractatu & conſilium impenſuri*, the Knights, and Burgeſſes *Ad faciendum & conſentiendum*, thoſe times had certain Ordinances beſides Statutes; For whatſoever the Lords and Commons agreed upon, was

was presently an ordinance, but when the King gave his Royal assent unto any ordinance, it then became a Statute.

For the Kings Answer is no more, *Le Roy le wile, or le Roy le aviſera.*

And before the Printing of Acts was used, they were always Engrossed, and Sealed with the Great Seal of *England*, and proclaimed in every Shire; which use was continued from the time of *H.* the Third, until *H.* the Seventh's days.

And the form was, the King, by the advice of the Lords Spiritual and Temporal, at the special instance of the Commons assembled in Parliament, hath made and established these Ordinances and Statutes, to the Honour of God, the good of the King and Realm. In which words you may observe a summary of this great Council.

1. First, the persons the three Estates.

2. Secondly, The end for which the Parliament was called *(viz.)* the Honour of God, *&c.*

3. Thirdly, The means by Council and consent each duty of the three degrees is insinuated in these three things, *(viz.)* request of the Commons, advice of the Lords, and establishment of the King.

1. The

1. The first expressing the suiters for the Royal assent is never prayed by the Lords, but by the Speaker, the mouth of the Commons.

2. The Second, distinguishing the House, the King hearing the Causes debated only by the Lords.

3. The Third, intimating that no Bill receiveth life until the Royal assent be given.

So by looking back it is easy to see the great Antiquity of this great Court, deduced as you see from before the *Romans*, but never so dignified as since Queen *Elizabeths* time.

Now for the nature of a Parliament, it is *Consilium* and it is *Curia*; the power of it in matters hereditary and personal. The proceedings of it in causes Criminal and Civil.

The privileges of it, *Sedentibus Sernientibus*. The Offices, Officers, and order of that Court; we leave to a farther discourse; thus much only of the Antiquity of Parliaments in *England*.

THE

The Antiquity, Power, Order, State, Manner, Persons and Proceedings of the High Court of Parliament.

Dodridge.

THE most Ancient and First Parliament is that in *Pollidore Virgil*, in the Reign of *H.* 1. the 16th year, which was about the year of our Lord God 1106. and that was held at *Salisbury* (as he saith) where were assembled with the King, all the Prelates, Nobles, and Commons, to consult for the publick weal, and as he thinketh before that day, the King never called the people to consult, or make Laws, and he deriveth the name of the *French* word *Parler*.

There is an Ancient Roll in some mens hands, which describeth the whole State and Order of the Parliament, and the title

of

f it is, *De modo tenendi Parliamentum* nd it is further described, *modus quomodo arliamentum Regis Angliæ & Angli Su-niri tenebatur temporibus Regis Edwardi lii Etheldredi, qui modus recitatus fuit co-m Willielmo Duci Normandiæ conquestore ge Angliæ, & per ipsum approbatus.*

By this it should seem, as they are de-ribed in that Roll, were held in the me of *Edward the Holy*; for he was the on of *Etheldred*. For *Edward* the Elder as the Son of *Alfrid*, and this *Edward e Holy* lived about the year 1043. And y this it should seem also that the Con-erour held a Parliament. In this it is first t down what Clergy-men were called, hich were not only Bishops, but Abbots d Priors, that held *Per Baroniam*. By hich I do gather, that they came not to at place as they were Spiritual men, but y reason of their Temporal Honour that ey enjoy in the Commonwealth.

For they have a place in the Convoca-ion in respect of their Spiritual function, d in that they are a part in the Court of arliament.

We read of a Parliament in 35 *E.* 1. in hich were sixteen Abbots and eight Pri-rs, but how many of these were of the house

houſe in general, for that I know it is no clear, that there was then a diſtinction o Houſes.

1. The Firſt is *de Clericis*.
2. The Second *de Laicis*.
3. The Third is *de Militibus*.
4. The Fourth is *de Cinibus*.
5. The Fifth *de Burgenſibus*.

All other Circumſtances of Places Times, Orders, and ſuch like are recited which I omit to remember particularly becauſe I know that is a thing well know to all this Company: And that it differeth from the order of that Court now uſed.

The Court of Parliament hath a doubl power, the one to conſent by way of de liberation, for the good Government o the Commonwealth, and ſo it is *Conſilium* not *in Curiâ*; and another power it hath as a Court of Adminiſtration of Juſtice.

The principal purpoſe of that Aſſembly ſeemeth to be for Conſultation; For th Writs are, *Ad conſultandum & deliberandum* but being aſſembled, they may hold Pl of Cauſes.

But the difference I find, that in Criminal Cauſes both the upper Houſe and lower Houſe entermeddle therewith, as in Attainders: Only in theſe, the

Spiri-

piritual Lords do all go out of the ouſe, and give their Aſſent by Proxies, o *E.* 4. 6.

But in Civil Cauſes, as in Writs of Er-or ſued there out of the *Kings Bench*, the pper Houſe only meddleth, as is well eſcribed in the Caſe of *H.* 7. 19, 20. in a rit of Error ſued out by one *Flowerdwe*, n a Replevine, wherein Judgement was ven againſt him in the *Kings Bench*.

But we have an expreſs Authority in *H.* 7. 18. That in a Criminal Cauſe the ommons muſt aſſent, for the King and ords did attaint one, and nothing was id of the Commons, therefore by the pinion of the Juſtices, the Act was held oid, and the party reſtored.

The Peers of *Scotland* were wont to ome to our Parliaments: For 39 *E.* 3. 5. in a Writ of Baniſhment, *Degard* a-ainſt *Gilbert Umfrevile*, he demanded udgement of the Writ, becauſe he was arl of *Anguſh*, and not ſo named in the rit. *Anguſh* (ſaith the Plaintiff) is out f ths Realm; yea, but, (ſaid the Defen-ant) I am ſummoned to the Parliament y that name; and the Writ was abated.

This therefore proveth, that the Peers of *Scotland* came to our Parliaments for Juſtice.

Juſtice. But *Littleton* ſaith 20 *Ed.* 4. 6. that we ſhall implead an Earl or Duke of *France*, by the name of Knight only.

I need not declare of the nature of a Parliament, how that it is a Body Politick; or of what parts and members it conſiſteth, for that is very well underſtood of all this learned Company; neither of the Order of it at this day, for moſt here know that of their own experience.

The priviledges of it are great, and more ſafely be diſcuſſed, what they are without the Houſe in regard of others, than what they are in the Houſe, for their Liberties there.

Of the Antiquity of the Parliament in *England.*

Agar.

That which we in *Engliſh* call a Parliament, I ſuppoſe and know to have taken the Name from the *French*, and *Norman* Tongue, ſounding upon the word *Parle* or *Parler*, to ſpeak or diſcourſe. In Latin I find that it was called before this which is uſed moſt for the aſſembly of the Spiritualty to treat of Divine cauſes, and ſo was practiſed when *Auguſtine* came to *Canterbury*, where the King of *Kent* called *Ethilbert*, gathered his Nobles and people to underſtand the meſſage, and Preaching of *Auguſtine*; and again it is termed *Conſultatio* as hereafter ſhall be ſet down, and in that ſenſe in *Anno Domini* 833. *Whitlafas Dux Winnoy. Winnoy* a great Lord or Prince amongſt thoſe of the Fens called *Girrii*, or *Girrogii*, in his Charter for the found-

founding of the Abbey of *Ramsey*, in which he termeth *Egbert* King, and *Atherlwolfe* his Son to be *Dominos suos*; and he dateth his Charter thus, *Datum apud Londini vitatem ubi, omnes Congregatum sumus pro consilio capiendo contra Danitos Piratos littora Angli assidue infestantes.*

This mentioneth *Ingulphus*; So that it appeareth when any eminent peril drew near for the hurt of the Common wealth, that then there were called in the History of *Eli Duces, Principes, Satrapæ Rectores & causidici*, also *convenerunt Angelicinus, Aldermani, & Episcopus Oswinus, & alii Episcopi, & omnes meliores, contionatores de com. &c.*

And the same Author sheweth *Brithmothus*, most noble Duke of *Northumberland*, was called Alderman, *id est, Senior vel Dux qui Dinodo magna constantia restituit Regem Edgarum & alios Monachos dicens, nequaquam se ferre posse ut Monachi ejicerentur de Regno qui omnem Religionem tenuerunt & coluerunt in Regno.*

King *Offa* in his Charter granted to the Abbey of *Chertsie*, hath these words, *Hanc libertatem omnia predicta ad prefatum monasterium pertinentia in Sinodali conventu in loco nomi-*

Historia de Chetersey.

atur

natur Edreſdenæ &c. & Teſtes conſiſtentes conſenſu & ſubſcripſi, &c. in Hiſtoria Cheriſey ones me remanente.

Canutus the *Dane*, beginning his Laws, ſheweth plainly that he made the ſame by the advice and Council of a Parliament, and beginneth thus: *Hæc eſt conſolatio, quam Canutus Rex mediatione vel decreto ſuorum ſapientum conciliatus eſt cum ſuis ſapientibus apud Wintoniam, &c.* Where I obſerve an old Written Copy, with a Comment thereupon: And they are expounded thus, *Conſiliatio id eſt inſtitutione multorum facto concilio.*

Item conſtitutionem pro inſtitutione, ponit ut innuat hæc non inſtituta fuiſſe ſuo proprio arbitrio, ſed multorum conſilio. And the ſaid King *Canutus* in the preamble of his ſaid Laws, in this manner: *Convocato itaque Comitum, Procerumque conventu & Eporum, Abbatum, & cæterorum Nobilium, Nec non & cætera nobilitatis, ſapientiæque totius Angliæ concilio ſatagebat communi decreto ut in quantum humana ratio valeat ea quæ juſta fuerunt ſtabiliret, &c.*

And in the ſaid preamble is ſet down that before his time Synods, and Aſſemblies for the Commonwealth were very rare, ſaying; *Eccleſiæ inſtitutiones, Synodo-*

rumque conventus apud Anglos inusitati ad hæc fuerunt: And the reason I suppose was, before *Canutus* the Realm was Governed by several Kings, but he having Conquered them all, and reduced them into one Monarchy alledgeth in this preamble, *Sunt in uno Rege, ita & una lege universum Anglia Regnum regetur.*

So as I conclude in this point, that before *Canutus* there were no Parliaments in *England*, the reason I have shewed before, which was the diversity, and continual interwar, betwixt the Heptarchy, by him reduced into a Monarchy: Since this time I find that King *Edward* the Confessor in his Charter made to *Westminster* Abbey, did seal the same at a Parliament. For thus he saith, *Hanc igitur donationem liberalitatem in die dedicationis predicta Ecclesia recitari nici coram Episcopis, Abbatibus comitibus, & omnibus optimatibus Angliæ omnique popluo audiente, & videnie*; where note these words *omnibus optimatibus Angliæ, & omni populi audiente, &c.* which cannot be but in a general Assembly, by Summons, and that is proved by the number, and diversity of the Witnesses, being Bishops, Abbots, Kings Chancellors, Kings Chaplains, Dukes, Earls, *& ministri multi, &c.*

And

And *William* the Conqueror in his Charter of his Ratification of the liberties of that Church, after he had ſubſcribed the Croſs with his name, and beſides him a great number of others of the Clergy and Nobility, inſtead of *cum multis aliis* hath theſe words, *multis præterea illuſtriſſimis virorum perſonis, & Regni Principibus diverſi ordinis omiſſis qui ſimiliter hinc confirmatione piiſſimo affectu teſtes, & fautores fuerunt hii etiam illi tempore a Regia poteſtate a diverſis Provinciis, & verbibus ad univerſalem Synodum pro cauſis cujuſlibet Sanctæ Eccleſiæ audiendis & tractandis quod Weſtmonaſterium dicitur convocati, &c.*

And in another Charter of his to the ſaid Abbey are theſe words, *Anno incarnationis Domini* 1081. *Regni etiam pronominati gloriosi Regis Willielmi* 15 *convenientibus in unum cunctis primis Primatibus in Nativitate D. N. I. &c.*

I Read not in *Rufus* time of any Parliament, but it appears in the Red Book of the Exchequer, that *Hen.* 1. before the making, or conſtitution of his Laws ſetteth down, *Quæ Communi conſilio & conſenſu Barronum Regni Angliæ &c.* and then proceedeth, *omnes malas conſuetudines quibus Regni Angliæ oprimebatur inde auferо*

quas ex parte ſuppono Teſtibus Archiepiſcopis, Baronibus, Comitibus, Vicecomitibus, & optimatibus Regni Angliæ apud Weſtmonaſterium quando coronatus ſui.

The Marriage of his Daughter *Mawde*, and the intailing of the Crown to her and her Heirs, was done by Parliament; and ſo conſequently all matters of importance was done and concluded, which the accord between him and *Stephen* was done in Parliament, and of ſuch force is an Act of Parliament. Herein the Government of the State of the Realm, as it is deemed as an Oracle from Heaven, and reſteth only in the King and Queens power to qualifie and mittigate the ſeverity thereof. And thus much of the Antiquity.

I leave to others to diſcourſe of the manner how they that are to treat therein are to be called, and of their priviledges. And ſo I end.

THE

The Antiquity of Parliaments, *Temporibus Edwardi le Confeſſor le Commons Doigt. ee.40. Jours de vant le Seſſion.*

THe Summons of the Clergy, Arch-Biſhops, Biſhops, Abbots and Priors, that hold by a County or Barony, are ſummoned by Writ to come to the Parliament, and the King bear the expences of their abode. And all the other Deans, Arch-Deacons, and Parſons, are ſummoned to appear by two ſufficient Proctors, which come with a duplication of their Procurations, whereof one part remaineth with the Clerk of the Parliament, and the other with the Proctors.

The Summons of the Layety, as Earls, Barons, and their Peers, which hold Lands and Rents to the value of a County or of a Barony *(viz.)* twenty Knights Fee, every Fee being accompted at 20 *l.* *per Annum*, which makes 400 *l.* or Thir-

teen Knights Fees and a half, which makes 400 Marks *per Annum*, and none of the Layety of leſſer condition are namely and particularly called by Writ, except their preſence be neceſſary for ſome ſpecial and extraordinary Cauſe.

Next, the King ſends his Writ to the Cincque Ports, to chooſe Barons to anſwer, alledge, and do for their Baronies, as if all were preſent. A Writ under the Great Seal for the Warden for their expences 20 *s.*

Next, the King ſendoth his Writ to the Sheriff of every Shire to chooſe two Knights of every Shire: A mark for their expences.

Then the King ſends his Writ to the Sheriffs of *London*, *York*, and other Cities that are Counties, to chooſe two grave Citizens; and they muſt have alſo a Mark for their expences.

Next, muſt be two principal Clerks of the Parliament, and they muſt ſit in the midſt of the Juſtices, to enroll all the Pleas, and buſineſſes of the Parliament, not being Clerks to the Juſtices: For there are no Juſtices in *England* that have any Power, or Juriſdiction in the Parliament: But the King calls them thither

to

to assist the Lords, and to hear and determine Petitions; for the two Clerks are immediately subject to the King; except he assign some of the Justices to examine their Rolls. Those Clerks enroll all the Judgment given in the Parliament, and before the end of the Parliament they deliver them over to the Treasurer, keeping a Transcript Roll to themselves. Their wages a Mark a day.

Other Clerks were assigned by the King to the Bishops, and others to the Earls and Barons, another to the Knights, another to the Citizens and Burgesses.

These set down all doubts and Answers, and are present in their Councils; and being at leisure, they assist the two principal Clerks, to enrol the Acts of Parliament.

If a matter of difficulty, either concerning Peace or War, be moved in Parliament, the King will enjoin all the several Degrees or Tribes of the Parliament, the Bishops, and Proctors, the Barons, *&c.* to go apart into several places, and the case to be delivered to their several Clerks: Whereupon they are to debate amongst themselves, and to advise; and if all, or the greatest part do not agree

then the Lord Steward, the Lord Conſtable, and Lord Marſhal, are to chooſe 25 out of the number; 2 Biſhops, 2 Proctors, 3 Earls, 3 Barons, 5 Knights, 5 Citizens, and 5 Burgeſſes; and theſe 25 men may chooſe 12, and theſe may diſtend to 6, and theſe 6 to 3, and theſe 3 to 2, and theſe 2 to 1; and ſo one perſon may determine a Cauſe, except the King gainſay it; which he may do during the Parliament, otherwiſe not.

There be three Degrees of Buſineſſes in Parliament.

1. Wars, or matters touching the Kings Perſon and Queen, or the Kings Children.

2. The Publick buſineſſes of the Commonwealth.

3. The private and particular matters; yet theſe are to be handled as Bills come in by Priority.

The principal Order of the Parliament, the Chancellor, the Treaſurer, and Barons of the Exchequer, ſhall Record the defaults of all thoſe that are ſummoned.

A Sermon before the Parliament muſt be provided by the Arch-biſhop, in whoſe Dioceſs it is holden. Proclamation muſt be made in the Hall or Monaſtery where it

The Antiquity of Parliaments.

Tax.

THe diligent obſervers of the Antiquity of this Realm, do very well know that Acts of Parliament are of ſo huge a nature, that they do not only tye the Inheritance of every man, but what is there Ordained, every ſubject of this Land is bound to take notice of at his peril. And becauſe no man that ſhould deſire to inform himſelf therein ſhould be ignorant what was done in Parliament, as now we uſe Printing of the Acts, ſo before Printing, all the Ordinances affirmed by Royal aſſent, were Recorded, and then publiſhed under the Great Seal of *England*, with a general Preface, and proclaimed in every Shire. This you may ſee coutinued from the time of *Henry* the Third till about *H.* the Seventh's days; and ordinarily the form was thus.

The

The King ſuch a day, and at ſuch a place, as at *Weſtminſter*, the ſecond day of *April*, in the ſecond year of the Reign of King *H.* 6. by the advice of the Lords Spiritual and Temporal, and at the ſpecial inſtance and requeſt of the Commons aſſembled in Parliament, hath made and eſtabliſhed theſe Ordinances, Acts and Statutes, to the honour of God, and good of the King, in form following: And then ſets forth every Act in particular Chapter.

Here you may ſee the perſons aſſembled, the end of their meeting, and the means to make it effectual. The perſons which meet at the Parliament are the Land; the end of the meeting is to be ſomething to Gods glory, the Kings good, and the benefit of the whole land, and the means to effect the ſame is by Conſultation and Conſent.

The particular Duty of each of theſe three, ſeems to be inſinuated in theſe words:- Firſt, the requeſt of the Commons; Secondly, the advice of the Lords; Thirdly, the eſtabliſhment of the King. The Commons being moſt in number, and ſuch as live in all parts and places of the Land, are like to have moſt and beſt notice

of

of ſuch things as are moſt likely and meet to be provided for; and being weak in power, and moſt ſubject to ſuch inconveniences as greatneſs may lay upon them, and therefore are fitteſt,

Firſt, to lay open their Griefs, and pray Reformation; or though they be not able at the firſt, with Judgment to foreſee enſuing dangers, yet the ſame being once purpoſed, and inſtantly apprehended, they may with inſtance importune allowance of ſuch Laws as may turn to their good, and our own experience teacheth us that the Royal aſſent was never prayed by the Lords, but by the Speaker, who is the mouth of the Commons.

In the preſence of a Prince a common perſon will ſcarce have the Audacity to ſpeak, but when neceſſity maketh him crave help.

And therefore it is properly ſaid, that the King adviſed with the Lords becauſe he heareth the Cauſes debated with them only; the Commons being ſeparated for conſultation, what were fit to propoſe into ſome other place.

Whatſoever the Lords and Commons agree upon is an Ordinance preſently, though it be never ingroſſed, and Sealed with

with the Great Seal, and proclaimed in the Countries, as the common course was; but it took no effect as a Statute, till the King declared his Royal assent, which he might very well do by Writ after the Parliament, as well as during the Parliament, *p.* 29. *Ed.* 3. *fol.* 46. 39 *Ed.* 3. *fol.* 7. For the Kings Answer is no more, but that he will be advised whether he will assent or no.

And if he assent not till after, it is some doubt whether it be an Act of Parliament, or but from the time of the Royal assent given.

The general assent of the Realm to make Ordinances and Laws, the Ancient Writers called *Concilium commune concilium magnum concilium, Placitum generale curia altissima & Parliamentum generale Curia altissimum & Parliamentum generale seu altissimum.*

The *Saxons* called it *Gemote, Pirena,* or *Pizena Gemore, Ealpa, Zemots, Synods.*

I find not the word Parliament before the beginning of *Edward* the First fully in use amongst us, but the assembly of the three Estates to consult of the affairs of the Commonwealth, is as Ancient as the *Britains,* and continued here in the time

time of the *Saxons* days, and *Normans*.

I ground my opinion for the *Britains* upon no expreſs authority, but by Inference out of divers. 1 *Ed.* 1. *Cæſ. Com. lib.* 5. *cap.* 5. ſaith, *Summa Imperii bellique adminiſtrandi commiſſa eſt Caſſibulano*, ſo that here we have the name. And if you think that the Commons were not called to this Conſultation, hear what *Zothilius* ſaith of the *Britains*, *Apud hos populus magna ex parte primatum tenet*, exclude themſelves of theſe general Councils, and you deprive them of this right: *Vitas in Hiſtor. Britain. lib.* 8. *fo.* ſaith, That *Arthurus Victor cum Regio Splendore Londinum ingreditur, eaque urbe convocatis clericis Principibus, ſuæ quidem poteſtatis omnibus conſilium quod optime factu ſit capit Beda, lib.* 2. *cap.* 2. ſaith the *Britains* told *Auguſtine*,

Se non poſſe abſque ſuorum ac licentia priſcis abdicare moribus Beda, lib. cap. 13. *Rex Edwinus antequam fidem Chriſtianam ſubſcriperet Dixit ſe non amicis Principibus, & conſiliariis ſuis collaturum, & habito ſapientibus conſilio*, &c.

The Story of the *Saxons* and their Laws make evident proof that they were ſtill of the ſame mind, tranſplanted hither, as *Tacitus* ſaith the *Germans* were, *nec Regibus*

bus infinito poteſtas de minoribus rebus Principes conſultant de majoribus vero omnes.

Hiſtoria Elienſis lib. 2. de Dunelme mortuo Rege Edgaro Leſſius (vel Lepſius) Deo, & Sancto Petro abſtulit cum rapina Burch, & Vendales & Cataringas poſtea alicibatur generale placitum apud Londinum ad quoddum Duces, Principes, Satrapæ, Rectores, & cauſadici ea omni parte confluxerunt, Beatus Ethelwaldus leſſium in vis protaxit coram cunctis injuria patefecit, & bene aparte diſcuſſa ea omnes Ethelwaldo per judicium reddiderunt Burch, & vendales & Katheringas.

Ingulphus hath many places to the like purpoſe, but I will uſe but one, *In feſto Nativitatis Beatæ Mariæ cum univerſi magnates Regni per Regni edictum ſummoniti tam Archiepiſcopi, Epiſcopi & optimates Londoiis convenerunt ad tractandum de Negotiis publicis totius Regni conſummatis omnibus coram univerſis Domino Turkettillo Abbati Monachiſque ſuis accerſitis Rex Etheldredus dedit Monaſterium Croyland,* &c.

Polidore, Virgil and *Paradine* are therefore much deceived if they thought *Henry* the firſt that held any Parliament in this Realm, neither do they ſeem to be of that mind: Their words are, *Reges ante Tempora H. 3. non conſueverunt Populi conventum*

tum consultandi causa nisi pro raro facere. Yet I think their Successors held Parliaments oftener than they did, yet nevertheless they held some. And *William* the Conquerour challenged not so absolute a Conquest of this Land: But the Law he made hath this Title, *Hic intimatur quod Gulielmus Rex cum Principibus suis constituit*, &c. And I think all Kings may yield to consult with their poople, for that reason which *Alfrid* used in his Preface to his Laws, *Temeritatis videatur ex suis ipsius decretis quenquam plura literarum Monumenta consignare cum incertum sit qualem apud posteros habitura quæ nos magni facimus.*

I have not seen *Arthur Halls* Book whereby he disalloweth the Commons to have any voice in Parliament, and for which he is disabled to be of the same House for ever, but I think he mistaketh some Writers meaning, which speak only of Barons, or Magistrates, but words are not so much to be regarded as whatsoever the Parliament alloweth, it bindeth as a Law, though it be set forth only in the Kings name, as the Statute of *Gloucester* and *Magna Charta*, or in the names of the Commons only.

In

In the Kings Oath the word (*Populus*) extendeth to the greateſt Subjects of the Land, and ſo doth it alſo in a Recognizance of the peace or good behaviour *quod bene ſe gerat erga populum cunctum*; If therefore he ſtrike or miſdemean himſelf towards a Baron the Recognizance is forfeited.

There is an expreſs Authority that proveth that the word *Magnates* comprehendeth the people. *Howden* ſaith *Anno* 1170. *Rex celebrat magnum conſilium Londinum cum Principibus & magnatibus terrâ de coronatione. A. filii ſui & Domini ſequenti Cler & populis conſentientibus fecit ipſe filium Suum Coronari.* Francis Tate.

The

The Antiquity of Parliaments.

Camden.

THat there were such like Assemblies as Parliaments now are, before the *Romans* arrival, hear some rather by the words of *Cæsar, lib.* 5. *De Bello Gallico, Summa Imperii bellique administrandi communi concilio permissa est Cassibulano:* and for that such due holding of Common Councils.

Tacitus seemeth to refer the happy proceedings of the *Romans* against the *Britans, A quod in communi non consulebant.*

These Parliament Assemblies the *Britans* do call *Rifrithem,* because Laws were there Enacted.

The English *Saxons* as soon as they setled themselves held also the like Assemblies, which they called in their Ancient English Tongue *Gereduisis,* or a Council; sometime *Wittena motts,* a meeting of wise

wiſe men; and ſometime of the *Greek* word *Synoth*. The Latin Authors of that age did call it, *Concilium magnatum conventus*, and *Præſentia Regis Prælatorum Procerumque collectorum*, as appeareth by the Charter of King *Edgar* to the Abbey of *Croyland*, in the year 966.

At which time, it ſeemeth by the ſubſcribing and ſubſigning, that Abbaſſes had the Voices there, and Conſents, as well as the Prelates and Nobles of the Land.

After the *Norman* Conqueſt, the two firſt Kings Reigned with their Swords in their hands, abſolutely of themſelves (*viz.*) the Conqueror, and *William Rufus* his Son, not admitting of themſelves any general Aſſemblies of the States of the Realm, but permitting only Provincial *Synodus* of the Clergy, for compoſing of Eccleſiaſtical Controverſies (as ſome write) wherein they themſelves ſate nevertheleſs as Preſidents.

Yet in their meeting (as it is in *Hovedon* where he ſetteth down the Laws of *William* the Conqueror, he did ſet them down) and Councel of the Barons.

Fecit Summoniri per Univerſis conſulatum Angliæ. Anglies Nobiles & Sapientes & ſua lege eruditos ut eorum & vira & conſuetudines

ab

ipſis audiret Electi igitur de ſingulis totius Angliæ comitatibus Viri, Duodecem in reviſendo confirmaverunt primo, ut quoad poſſuit de tramite, neque ad dextram, neque ad Sinistram partem de vertentes legum ſuarum conſuetudinem & Sanctitatem patefacerent in omnibus pretermittentes nihil addentes nil prevaricando mutantes

And oftentimes both he and his Son called the Arch-biſhops, Biſhops, Abbots, *Archiepiſcopos, Epiſcopos, Abbates, Comites, Baronies, Vicecomites, cum ſuis militibus*; and *Florentius Wigorenſis.*

the time following we find that there was *Conventus omnium Epiſcoporum Abbatum, & Procerum Regni Londini, & in Palatio Regis.*

But an old Manuſcript-book *Liber Cantuar.* with that the Firſt Parliament, wherein the Commons were called as well as the Prelates and Nobles, as *Anno* 16 *H.* 1.

And then was firſt called by the name of Parliament, as ſome ſay, from the Peers, *a potiore parte quas parrum contus*; ſome derive it from the Peer, *ridiculoſi quaſi partum lamentum*; others more probably derive it from the *French* word *Parler*, or that of the *Greek* παραλαλεῖν, that is to treat and to confer

ferr together, ſome of the *French* Hiſtories write that this name in this ſence began at an Aſſembly of the Peers of *France*, about the year of Chriſt 1200. But I find the word to have been in uſe as in this Realm long before. For *Ingulphus*, who died in the year 1109. uſed the word of the Meeting or Chapter of the Abbot and Convent, writing thus.

Conceſſimus etiam tunc Seriantiem nom. Eccleſiæ Seimano de Leke qui veniens coram conventu in Publico Parliamento nom. ſimiliter viramentum preſtit quod fidus nobis exiſterit. Neither do I doubt but that the word was brought into this Realm by the *French* mouth, and firſt uſed by the Statiſt in the time of *H.* 1. ſince that time the authority of this Court hath ſtood ſetled, and the Commonalty hath had their voices which the ſaid *Henry* the Firſt granted unto them being a natural *Engliſhman* himſelf, and the love of the *Engliſh* Nation; when at that time the *Normans* were on the terms of revolt from him in favour of his Brother Duke of *Normandy*.

Now for the form of aſſembling theſe three ſorts of Eſtates in this high Court I find no certainty till the time of King *John*, it is apparent by a Petition exhibited

ted by the Lord *Fitz. Hugh* in a Parlia-
ent holden at *Leiceſter* 2 H. 1. that the
incipal Nobility were only called, and
ey after the end of the Parliament to
mpart unto the Barons and their Coun-
y, what was done in the Parliament.
terwards King *John* ordained that all
e Barons of *England* ſhould come in their
oper perſons to the Parliament whenſo-
er they were Summoned: The for-
er I will deliver out of the words of
e Petition.

*Ipſe Dominus Rex quando generales Sumo-
iones vicecomitibus cujuſlibet commitatus
rigeret ipſos invingendo quod omnes Comites
Barones quorum nomina infra Scripta fue-
nt & intra ſuas Ballivas reſidentes ipſi ſum-
nirent ad veniendum ad Parliamentum
gis, & hoc non omittatur quæcumque ex
ſa Subpæna magni contemptus*: At which
me as it is in the Book intituled *Modus
endi Parliamentum*, all Earls which have
and, Tenements and Revenues to the
alue of an entire Baron, which is 15
nights fees and a half, come to the Par-
ament, but when ſo great a multitude bred
umultuous confuſion, King *H.* 3. after
at he had ſmarted by theſe confuſed
ultitudes of Barons, ordained that theſe

Earls

Earls and Barons unto whom he had directed his Writ ſhould only come to Parliament, ſo the Ancienteſt Summons which I have ſeen, which were *Anno* 49 *H.* 3. they were called beſides the Earls 17 Barons, this which *H.* 3. began was fully perfected by King *Edward* the Firſt, his Son, who elected the wiſeſt, and ſuch as pleaſed him, and likewiſe omitted them and their Children in his Summons, if they did not equal their Parents in wiſdom and other good parts and Offices of valour and Government: So as we ſee in that time *Helton*, *Corbet*, *Points*, *Leibourne*, *Vavaſar*, *&c.* and ſuch other like were Summoned once or twice to Parliament, and their poſterity, wholly omitted afterwards. The Barons, and Biſhops were called *De Negotiis tracturi, & concilium impenſuri*, the Knights and Burgeſſes, *ad faciendum & conſentiendum iis quæ ibum de communi conſilio dicti Regni nom. favente deo, contigerit ordinari ſuper de Negotiis ante dictus*, and in the ſame words were the Clergy called *Ad faciendum & conſentiendum*, ſo as it ſeemeth they had as much to do in Parliaments then as Knights of Shires and Burgeſſes.

William Camden.

Of the Antiquity of the Parliaments in *England*.

Holland.

I find in many Ancient Hiſtories that the Kings of this Land, did uſe to call together the Nobility and States of this Realm to conferr with them eſpecially about matters of War, when any necenary occaſion did move them thereunto.

But it is thought by *Hollingſhed* in his Chronicle that the firſt uſe of Parliament did begin with the Seventeenth year of *Henry* the First which ſince that time hath remained in force, and is frequented unto our times, inſomuch as when any thing is to be decreed appertaining unto the State of the Commonwealth, it ſhall not be received as a Law, until by authority of that aſſembly it ſhall be eſtabliſhed. *Hollingſheds* Chronicle.

It is recorded amongſt the Commons of

Parliament in the 35 *E.* 3. that there is noe Writ *De admittendo fide dignos ad colloquium*; and amongst the Earls and Barons there is returned *Marie counteſſe de Norfilk, Alianor Counteſſe de Ormone, Phillipp Counteſſe de March, Agnes Counteſſe de Pembrook. and Katherine Counteſſe de Athell.* *Camdens Britania.*

Upon the Parliament Roll *Anno* 14. *vel* 15 *E.* 3. there are divers Writs directed to ſundry Earls and Barons *De veniendo Ad Regem*, whereof the firſt is directed to *William* Earl of *Southampton* to attend the King with 120 men at Arms, *William de Clinton* Earl of *Huntington* with 60 men at Arms, *Lawrence de Haſtings* Earl of *Pembrook* with 50 men at Arms, and ſo likewiſe there were divers directed to others, and theſe ſeveral kind of Summons, becauſe I find them recorded amongſt the Parliament Rolls; I thought good to remember them to you, I will conclude upon the Etymology of the word which is Parliament, which is to ſpeak, and deliver mans a mind freely in that Aſſembly. Wherefore the boldeſt Speech that ever I did read of to be ſpoken of in the Kings preſence, was ſpoken by *Roger Bigod* Earl Marſhal of *England*, unto King *Edward* the Firſt in the Parliament

liament Houſe at *Salisbury*, where the King would have him to go into *Gaſcoine* for him with an Army; but when the Earl excuſed himſelf, ſaying, he would be ready to go if the King went himſelf.

The King then in a great chafe ſaid by God Sir Earl thou ſhalt go or hang, and I (ſaid the Earl) ſwear the ſame Oath that I will neither go nor hang: And ſo departed from the King without taking leave.

Joſeph Holland.

THE

The Antiquity of Parliaments.

Cotton.

The two Sinews of the Common-wealth, } Puniſhme nt, And Reward.

AS touching the nature of the High Court of Parliament, it is nothing elſe but the Kings great Council, which he doth aſſemble together upon occaſion of interpreting or abrogating of old Laws, and making of new, as all manners ſhall deſerve; or for puniſhment of evil doers, or for reward of the vertuous; wherein theſe four things are to be conſidered.

1. Whereof the Court is compoſed.
2. What matters are proper for it.
3. To what end it is Ordained.
4. What is the means to bring the end to paſs.

1. As for the thing it ſelf it is compoſed of

of a Head and a Body: The Head is in the King, the Body are the members of the Parliament. This Body again is subdivided in two parts: The Upper and the Lower House.

The Upper House is divided partly of the Nobility Temporal, who are Hereditary Counsellors to the High Court of Parliament, by the Honour of their Creation and Lands; and partly of the Bishops, Spiritual men, who are likewise by vertue of their dignity, *Et ad vitam*, of this Court. The other House is composed of Knights of the Shires, and Burgesses for the Towns.

But because the number would be infinite, for all the Knights, Gentlemen and Burgesses, to be present at every Parliament, therefore a certain number is selected out of that great Body, serving for that great Parliament where their persons be the representations of that great Body.

2. For the matters whereof they ought to treat, they ought therefore to be general; and rather of such matters as cannot well be performed without the assembling of that general Body; and no more of the generals neither than necessarily shall be required; for as in *Corruptissima Rei Publi-*

ca

ea plurimæ sunt Leges; so doth the life and strength of the Law consist not in heaping of infinite and confused numbers of Laws, but in the right interpretation, and due execution of good and wholesome Laws.

3. The end for which the Parliament is ordained being only for the advancement Gods glory, and Establishment of the weal of the King and his people; It is no place for particular men to utter their private conceipts for satisfaction of their curiosities, or to make shew of their eloquence by spending the time with long studied, and eloquent orations, for the Reverence of God, their King, and to give their best advise for the furtherence of his service, and flourishing weal of this Estate.

4. And lastly to consider the means how to bring all your Labours to a good end, you must remember that you are assembled by your lawful King to give him your best advice in matters proposed by him unto you, being of so high a nature as before said wherein you are gravely to deliberate, and upon your consciences plainly to determine how far those things propounded do agree with the weal of your King and the Country, whose weals cannot be separated.

But of the form of holding, see Sir *Tho. Smiths* Book Cap. 3. Fol. 47. De-

Deſcriptions and Occurrences of the Parliament.

Selden.

THat we now agreeing with the *Scots*, do name a Parliament; the *Frenchmen* do call it *le Eſtates ou le aſſemble del Eſtates*, becauſe with them there (as with us alſo) the King, Nobility and Commons do meet thereat to conſult. And the ſame in *Germany* is termed a *Diet*; for thoſe other Courts that carry the name of Parliaments be but ordinary Courts of Juſtice, which as *Paulius Jovius* Writeth, are thought to have been planted by us, and of which our own Councels eſtabliſhed in *Wales*, and in the *North* parts do bear the neareſt ſhew and reſemblance.

This word Parliament ſaith one is compounded of *Parium & lamentum* becauſe (as he thinketh) the Peers of the Country did at thoſe meetings lament and complain

Plain each to other of Country grievances, and thereupon provided redreſs for the ſame.

But their opinion's more proboble (as I think) who drew *Parliamentum* from the *French* word *Parler*. And that alſo from the *Greek* παραλαλεῶ, both ſignifying to ſpeak, and ſo adjudge the determination (ment) which is common in the *French* Tongue as well to main *Nouns* as *Adverbs* do make up a Parliament, meaning thereby an aſſembly of men called together to ſpeak and conferr of their advices or opinions.

And alſo it may not unfitly be called Parliament, for that each man there doth, or ſhould ſpeak his mind.

But *Laurentius Ville* miſliketh that manner of Etymology, I will not take upon me to ſet down the very time in which the the word Parliament came firſt in uſe.

But foraſmuch as it was tranſported out of *France*, it is not improbable to gueſs that it began here ſhortly after the time of the *Norman* Conqueſt, and of the firſt Authentical reports of that name Parliament that I have found in the Statute made 3 *E.* 1. and commonly called *Weſtminſter* 1. where that aſſembly is ſaid to be *Primer Parliament general a pres coronement*

ment le Roy; But yet that is not the very first use of the word, for in the Statute called *Articuli Celeri* published 9 E. 2. these words are read amongst others, *Temporibus Primo genitorum & quondam*, must needs reach higher than to *Edward* the First that that was but Father to him that spake it. So that I can willingly therein subscribe to the opinion of *Pollidore Virgill*, who in the XI. Book of his *English* History which containeth the Reign of *H.* 1. that was Son to the Conqueror, Writing of the great Assembly at *Salisbury* saith thus, *Ad illud oppositè habeo dicere Reges ante hæc tempora non consuevisse populi conventum consultandi causa nici perraro facere adeo ut ab Henrico id institutem vire mannasse dici possit, &c.*

And a little afrer *Gallico Vulgo Parliamentum appellant, &c.* And this by so much the more credible, as that King laboured by all means, and especially by restitution of the Ancient Laws (as all Historians do agree) to heal the hurts of the *Englishmen*, which were before deeply wounded by the oppression of his Father, and his Brother *William*, to the end that he might thereby the better keep the Crown of this Realm against his Elder Brother *Robert*, who both had good right, and made his claim thereto.

But

But what time ſoever after the conqueſt this Court began to be called by the name of Parliament yet, is it certain that the ſame was free known to the *Saxons*, and *Engliſhmen*, ſometimes by the word of *Sinoth* and *Gemot*, and *Micell*, *Witena*, *ala Witena* and *Lemote*, and *Halimote*, that is to ſay, Aſſembly, or the meeting of the Wiſemen of a Shire of the men of the Town, and of the Tenents of a Hall or Mannor had there beginning alſo. And as *Sinod* is more uſed in the Acts of Parliaments themſelves, ſo *Gemote* is more familiar to the Hiſtories.

Thus much of the Ancient uſual name, now let us look to the thing it ſelf, like as in War, when the King is preſent, and with him the Nobility, Gentry, Yeomanry, there is the force, and puiſſance of the Realm, even ſo in peace; whereſoever the Prince is (as the head) to give life, that is to yeild the laſt, and higheſt aſſent, and where the Barony conſiſting of the Lords Spiritual and Temporal, and Commonalty, made up of the Knights, and Burgeſſes (be as the Body) preſent at his commandment to deliberate, conſer and conſent.

There is alſo the Council and Pollicy of the Realm, ſo that for as much as every

y man from the higheſt to the loweſt, is here by perſon, or by procuration, there-ore of right reaſon every man is ſaid to e found by that which doth paſs from uch an Aſſembly.

And this form of Policy is both Natural nd Armonical, Natural in that it hath an mitation of the natural Body, of a man truly called the little world) out of the hree Cells, whereof namely the Head, reaſt, and Body, the whole three parts f the Soul do open, and utter themſelves, nd Harmonical becauſe ſo well tuned a aſs, Mean and Treble, there proceed-th a moſt exquiſite conſent, and delicious armony.

The beginning of which manner of con-ltation, and namely with us of this ealm, if not how can I derive it from any ther time, than from that which the *erman* and *Engliſh* Nation did ſet their rſt Foot in this Land to invade it.

For *Cornelius Tacitus* Writing of the anner of the Ancient *Germans* ſaith thus, *ec Regibus infinita poteſtas de minoribus bus Principes conſultant omnes*, neither did hey together with the change of the Soil ake change of this their wonted manner f deliberation, for it is yet extant in mo-

numents

numents left behind them, that after their coming hither they frequented the same order in Councelling which they had used in their own Country before, for proof hereof I might call *Beda* the *Saxon* Historiographer to witness, who reporting how the Christian Faith took root by little amongst themselves in their particular Kingdoms in this Land, Writeth, that King *Edwin* of *Northumberland* would not embrace the Preaching of the Gospel, before he had commended and consulted with his Freinds, his Nobility, and his Wisemen. And so I end.

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FINIS.

THE METHOD OF Passing BILLS IN PARLIAMENT.

Written by *Henry Elsinge*, Cler. Par. Now Printed from the Original Manuscript under these Heads, *viz.*

1. *Proceedings upon Bills.*
2. *The Commitments of Bills.*
3. *Manner how Committees are named.*
4. *Who may not be of a Committee, and who ought to be.*
5. *Council heard at the Committee.*
6. *A Bill Recommitted.*
7. *The Third Reading.*
8. Nova Billa.
9. *Amendments and Additions, or Proviso's added afterwards, how Lawful.*
10. *Amendments of Amendments how Lawful.*
11. *A Proviso added after a third Reading, not usual.*
12. *A Proviso added by the one House, and desired be taken away by the other House, whether Lawful.*

LONDON,
Printed by *F. L.* for *Matt. Gilliflower*, at the *Spread Eagle and Crown* in *Westminster-Hall*. 1685.

Proceedings upon Bills.

The first Reading.

THe Clerk reads the Bill ſtanding at the Table, and then delivers the ſame kneeling unto the Lord Chancellor, together with a Brief of the Bill.

The Lord Chancellor reads the Title of the Bill, and then reports the effect of the ſame out of the Brief, and concludes, This is the firſt time of the reading of this Bill.

At the firſt Reading, the Bill is ſeldom now ſpoken againſt.

There are preſidents to the contrary, *prout A.* 1 *H.* 8. 11 *de Parliamenti Billa de actionibus* (brought from the Commons) *lecta* 1. *vice &*

Domini diſputando cenſerunt reformandum; quod regia Majeſtas haberet 3. vel 4. annos pars vero contra partem, niſi unum annum.

And a Bill hath been received at the firſt Reading *prout*.

Anno 3 E.6. 14 No. Billa pro Juriſdictione Epiſcoporum rejected, and a Committee appointed to draw a new Bill.

The Subſidy Bill and the Kings general Pardon, were uſed to be Read but once, and ſo were expedited at the firſt Reading.

Yet if a Proviſo be added to the Subſidy Bill, that hath been read three times *prout*.

So if a Proviſo be added to the general Pardon, that is to be read three times, *V. 3 E. 6. 1 Febr.*

Anno 35 H. 8. 4 die Martii 1. Vic lecta eſt Billa, concerning the King Majeſties Award between the Lor *Dacres*, and the Heirs general of Si *James Strangwiſh* the younger, *cui qu dem Billæ Proceres aſſenſerunt.*

Bill

Bills also have been committed at the first Reading.

Anno 6 H. 8. 14 Febr. recepta est Billa in papiro concernens apparatum & lecta, est jam primo, & deliberata Magistro Pigott reformanda.

Anno 1 E 6. 21 Nov. allata est a communi Domo Billa, for Benefices, common Preachers, and Residence. *Quæ 1. vice lecta est, & commissa est Archiepiscopo Cant. Episcopis Elien. Dunelm. Roffen. & Lincoln. Marchioni Northampton. Domino St. John Comiti Arundel Domino Admiral, & Domino Wentwoorth.*

Anno 5 E 6. 16 Febr. Hodie 1. vice lecta est Billa, to avoid regrating, forestalling, *&c. & commissa Magistro Hales, Magistro Molineux, Magistro Saunders, & Solicitatori Regis.*

And there are very many Presidents, that Bills have been committed at the first Reading, in the times of *H.* 8. and *E.* 6. as may appear by the Committees of those times.

The like Presidents I find in most of the Journals of Queen *Elizabeth*, *prout*, *&c.*

Anno 8 *Eliz.* 3 *Oct. Bills* for the better executing of certain Statutes, *&c.*

Eodem Anno 5 *Octobr.* touching Fines and Recoveries, *&c.*

Anno 13 *Eliz.* 20 *April.* against fraudulent Conveyances, *&c.*

Anno 14 *Eliz.* 12 *May*, for preservation of Wood, *&c.*

Eodem Anno & Die, for the punishment of Vagabonds, *&c.*

And so in many other Parliaments of *Eliz. &c.*

The Second Reading.

In the same manner the Clerk reads the Bill the second time, and delivers the same without a Brief to the Lord Chancellor.

His Lordship recites the Title thereof only, and saith, This is the second Reading.

Then if no man speaks against the Bill, it is ordered to be engrossed, if begun

egun with the Lords; or to have a hird Reading, if brought from the Commons.

If any doubt be conceived, which often *pro forma tantum*, the Bill is committed.

V. inter ordines &c. An. 18. *Jacobi.*

Bills are commonly let pass at the first Reading, and committed at the second.

Yet it appears by many Presidents of *H.* 8. *E.* 6. and *Q. Eliz.* that if the Lords did apprehend any dislike or doubt in the Bill at the first Reading, it was then committed immediately, *vront antea.*

The Commitment of Bills.

AT the second Reading, if the Bill be required to be committed, the Lord Chancellor demands of the Lords how many of each Bench shall be of the Committee.

Which being agreed on to 3, 5, or 6, &c. the Earls are first named, then the Bishops, then the Barons.

The like Order is observed in the naming of Committees for any other business.

And if there be five Earls, then five Bishops, and ten Barons; the reason whereof I know not. *Neque fuit sic a principio.*

Anno 3 *E.* 6. 14 *No.* the Committees to frame a Bill for the Jurisdiction of Bishops, were the Marques *Dorset*, 4 Bishops, and 2 Barons.

Eodem Anno 2 *Januarii*, the Committee sent to the Duke of *Somerset* were, 1 Earl, 5 Bishops and 2 Barons.

Anno

Anno 27 *Eliz.* 4 *Decembr.* the Bill for the Clothiers of *Boxſted*, *&c.* was committed unto 3 Earls, 1 Viſcount, 1 Biſhop, and 3 Barons.

Eodem Anno 3 *Dec.* the Bill for the landing of Merchandize, *&c.* was committed unto 8 Earls, 2 Biſhops, and 4 Barons.

Eodem Anno 27 *Eliz.* the firſt Bill for encreaſe of Mariners, was committed unto 2 Earls, and 6 Barons, and no Biſhops.

Eodem Anno & Die, the Bill for the Sabbath day, is committed unto 6 Earles, 1 Viſcount, 5 Biſhops and 7 Barons.

The Preſidents hereof are infinite, that no ſuch order was obſerved to name a ſet number of each Bench, or to double the number of Barons until in the latter Parliaments of our late King *James*: Neither was this conſtantly obſerved until the Parliament of 12 *Jacobi Regis*, and afterwards. For in the Fourth Seſſion of the Par-

liament, *Anno* 1 *Jacobi Regis*, sometimes the number of each is equal, and sometimes the Barons are the greater number. But they seldom double the number of the other Bench, unless in the Committees of a small number.

But here may be a question (*viz.*) Whether a Bill may be committed by the orders of the House, if no Lord move any doubt, or imperfection in the same.

And I am of opinion that it may not, neither is it necessary.

My reason is, for that I find many Bills to pass without commitment, and some at the second Reading in the times of *H.* 8. *E.* 6. and Queen *Elizabeth.*

But now the constant order is to Read every Bill (save the Pardon) 3 times.

And the general Voice to commit the Bill at the 2 Reading, shews that the Lords do conceive some doubt therof, though none move any.

The

The manner how Committees are named.

THe number of each Bench being agreed, they are named *promiſcue*, by any of the Lords, but the Clerk is to be careful to ſet down thoſe whom he hears firſt named: which is done in this manner.

Firſt the Earls are named and thoſe that ſit on that Bench.

The Clerk having written them ſtands up and Reads their names.

Then the Biſhops, then the Barons in like manner.

And if the Clerk happen to ſet down more than the number agreed on; it is in the Liberty of the Houſe to take out the latter, and ſo to leave the juſt number, or to admit them.

Then the Houſe names the attendants which are of the Judges, the Kings learned Council, and the Maſters of the Chancery.

The

The Clerk Reads their names also.

The last is the time and place where to meet, which being agreed on, and set down, the Clerk reads that also.

Who may not be Committees, and who ought to be.

IF any Lord speak against the Body of the Bill, he is not to be named of the Committee of the same Bill.

No absent Lord is to be of any Committee, unless Officers of State, when the Bill or Business concerns their Office. And then they are to be named, and to have notice sent them thereof.

V. Anno 1 *Jac.* 14 *Junii*, Subsidy of Tonnage and Poundage.

That Lord which moveth any doubt concerning the Bill, ought also to be named, and to be of the Committee, if he be present.

This is also a received opinion, and often in practice; and the Clerk ought to

to be attentive, and hearken after the names of such Lords.

The number of the Committees being agreed on, named and Read, the Clerk delivers the Bill with a note of the Committee affixed, unto the first of the Committee then present.

The Committees being met, though not all, yet if the better half, they may proceed.

Anno 18. & 19. *Jac.* 30. *No.* It is ordered that that if 10 or upwards of any Committee do meet (though not the one half of their number) they may proceed notwithstanding.

At the Committee the Judges, and and other Attendants do neither sit, nor are covered unless it be out of favour, and then they sit behind, but are never covered.

One of the attendants Reads the Bill and writes the amendments (if any) in Paper, with directions to the places to be amended.

And if any addition or Proviso be conceived, he writes the same in Paper also,

also with directions where they are to be placed.

Any other Member of the House may be present at this Committee, but they may not Vote: And must give place to all of the Committee, and sit below them.

If the Business be not dispatched at the first meeting, the Committee themselves may appoint another day. *V. An. 4 Jac. 26 Febr.*

But this must be done before their departure.

Council heard at the Committee.

AT this Committee, if it be a private Bill, they will not only call both parties before them, but hear their Council.

Wherein this order is observed, that the Council who speaks against the Bill is heard first, for it is already understood what the Bill desires.

And

And either part may desire to have their Council heard in the House, which being reported by the Committee, is so ordered.

There also the Council against the Bill speaks first.

And for publique Bills Council is also heard, if any oppose it.

And if a publique Bill concern any Officer, Corporation, or particular Person, or any Artificers, they are usually sent for to attend the Committee.

The Bill reported by a Committee to the House.

THe Committee, or greater part being agreed what report to make to the House,

The first of the Committees that was present, makes report thereof standing and uncovered with the Bill in his hand.

And all the rest of that Committee (then present) stand up and are uncovered,

covered, whereby they signifie their assent unto the said report.

The report being ended, he delivers the Bill and the amendments, addition and Proviso, (if any) unto the Clerk, who goes from his seat, and receives the same from his Lordship

If the report be for the Bill to sleep it is so ordered and entred by the Clerk in the Journal Book, and endorsed on the Bill also.

If Amendments, Additions, or Proviso's be reported (when the House orders the same to be read) they are Read on this manner by the Clerk, (*viz.*) The amendments of the Bill &c. (reciting the Title thereof, or the Additions or Priviso's to be added to the Bill, &c. And so Reads the same as they are in the Paper delivered by the Committee.

Then the Clerk delivers the same kneeling unto the Lord Chancellor, having first endorsed on the amendments &c. 1. *Vice lecta.*

His

His Lordſhip firſt Reads the Title of the Bill. Then that the ſame is returned by the Committees amended thus (*viz.*) In ſuch a line between ſuch a word, and ſuch a word inſert thoſe words, *&c.*

Or in ſuch a line put out this words, *&c.* and ſaith further, before it was thus, and now it is thus.

If additions and Proviſo's are only reported, and no amendments, then his Lordſhip, firſt recites the Title of the Bill, then that it was committed and returned with ſuch or ſuch Additions, or Proviſoes, and ſo repeats the effect thereof briefly.

This being done, the Lord Chancellor demands whether their Lordſhips be pleaſed that their amendments, *&c.* ſhall receive a ſecond Reading, and if ſo agreed on,

The Clerk receives the Bill with the amendments, *&c.* of his Lordſhip and Reads the ſame again, and endorſeth on the amendments, *&c.* 2. *Vice lecta, &c.*

And

And kneeling delivers the same unto the Lord Chancellor again.

His Lordship Reads the same thus.

First recites the Title of the Bill, then that it hath been committed and returned with amendments, &c. the which amendments have been twice Read. And demands their Lordships pleasure (if the Bill began above) whether the Bill shall be engrossed with the said amendments, &c. or no: And if answer be made affirmitively and no Lord speaks against it: Then it is so ordered to be done; and the Clerk receives the Bill again, and endorseth on the said amendment to be engrossed; if the Bill be sent from the Commons, then the Lord Chancellor demands their Lordships pleasure whether the said Bill, and amendments, &c. shall be Read the third time or no.

At the second Reading any of the Committee may speak against the Body of the Bill, or against the amendments, &c. before they be engrossed.

V.

V. An. 39. *Eliz.* 24 *Jan.* This was debated, but not then determined. But *An.* 43 *Eliz.* 12 *No.* it was resolved by the House.

Recommitted.

THe Bill being thus reported by the Committee: if any doubt be moved, and the House think good then (before the amendments be ordered to be ingrossed) or ordered to have a third Reading, the same may be recommitted, either to the former Committees only, or to the same and others.

If the Committee find the Bill so imperfect, that it can hardly be amended,

Then they may without further order from the House, frame a new Bill.

Which is most commonly done by one of the Attendants.

This new Bill being agreed on and returned with the old Bill to the House, and the cause thereof reported by the Committee, the old Bill sleeps. And

And the Lord Chancellor demands of the Lords whether they be pleased that the new Bill shall be Read or no, which is done accordingly.

If any doubt be conceived of the new Bill, the same may also be committed as the former was recommitted.

Or (after the second Reading) the House may order a third Bill to be framed. *V. An.* 1 *Jacobi* 4 *Junii.* Recusants: But after the third Reading this is not now done.

The third reading.

THe Clerk first Reads the Title, and then Reads the Bill, and delivers the same to the Lord Chancellor in manner as before having first indorsed 3 *An. V. lecta.*

His Lordship repeats the Title only and says, this is the Third Reading of this Bill.

If no Lord speak against it, then his Lordship demands, whether he shall put

put it to the Queſtion which being agreed on, or not denied.

The Queſtion is thus.

Such of your Lordſhips as are of opinion, that this Bill is fit to paſs (or ſhall paſs, ſay content.

They which are of another opinion ſay not content.

Then the loweſt Baron begins and ſaith content, or not content, without any more words. And ſo they proceed in order to the firſt Baron.

Then the Biſhops.

Then the Viſcounts, and Earls, and thoſe that ſit on the Earls Bench in like manner.

The Lord Chancellor, or Lord Keeper (if he be a Baron, Earl, or Biſhop,) removes to the firſt place on the Earls Bench, and giveth his voice Content, or not content.

The Prince (if preſent) ſpeaks laſt, if any doubt be of the moſt voice then one Lord who ſaid content, and another Lord who ſaid not content are

are appointed to number them by the Poll, which they do in this manner.

They go together to the Barons Bench, and every Lord who ſaid Content, ſtands up. Then the Biſhops and Earls Bench in like manner.

Then they return again to the Barons Bench, and every Lord who ſaid not content ſtandeth up; and ſo of the Biſhops and Earls.

And according to the relation it is agreed whether content, or not content, had the more voices.

And the Bill doth paſs or is rejected accordingly.

This Order is obſerved in all Queſtions.

Upon examining of the Votes the Proxies of the abſent Lords may be demanded, and ſuch Lords as gave their own Vote with the Queſtion may give his proxies againſt it, *Prout.*

Nova

Nova Billa.

IF the Bill began below be committed, and a new Bill brought in by the Committee,

When the ſame is paſt by the Lords, it is to be returned to the Commons together with the Old.

Hereof are may Preſidents, *temporibus H.* 8. *E.* 6. *Eliz.* And one 4 *Jac.* 27 *May pro Comite Darby.*

So likewiſe the Commons are to do if they make a new Bill.

ut if the Commons ſend up a new Bill, and the Lords Reads the ſame and reject it, the Commons cannot ſend up another Bill of the ſame Argument in the ſame Seſſion: *V. An.* 3 *Jacobi* 27 *May*, Purveyors.

If the Lords paſs a Bill, and ſend it to the Commons, and they reject the ſame without conference with the Lords, they cannot ſend up a new Bill of of the ſame Argument (in the ſame Seſſion) *V. An.* 29 *Eliz.* 22 *Martii*, *Handfords* Bill. But note this new

Bill

Bill was sent up without the old, otherwise I conceive it had been according to Orders.

And I suppose the reason to be for that the Lords will not proceed in a new Bill, before they understand what is become of the Old, which they formerly past: Nor unless they may also have by them the former Bill.

And therefore either a conference or the old Bill to be returned is necessary.

The same order is observed if the Commons send up a Bill to the Lords.

Amendments, and Additions, or Provisos added afterwards how lawful.

VI. *An.* 27 *Eliz. Decembr.* 17 The Commons sent up a Bill, (for the Sabbath day) to the Lords who past the same with amendments, and so returned it to the Commons: They sent it back to the Lords with new amend-

mendments who rejected the ſame as againſt Order.

It ſeems the Commons had ſome conference with the Lords concerning the ſame; for afterwards in the ſame Parliament the Third of *March* it is thus entred (*viz.*)

Memorandum that this day were choſen for Committees to examine the Record touching paſſing amendments of amendments, moved to the ſame by the lower Houſe, the Lord Treaſurer, the Earl of *Suſſex*, the Viſcount *Mountague*, the Biſhop of *Wincheſter*, the Lord *Hunſdon*, the Lord *Buckhurſt*, the Maſter of the Rolls; and Mr. Attorney about the Bill for the better obſerving of the Sabbath day.

The Preſidents they named were the Bills for Treaſons, and bringing in of Bills. Acts paſſed in *An.* 13. of the Queen.

But theſe Preſidents appear not in the Journal of the upper Houſe.

It ſhould ſeem, that the Lords were then ſatisfied, and ſignified the ſame

unto the Commons, for afterwards 6 *Martii*, the Commons returned the same again with amendments of amendments, which the Lords publickly read 3. times and past the same.

V. the Journal of the lower House 22 *Febr. fol.* 97 & 99. That the Commons desired the Lords that search might be made in the upper House, for Presidents touched by them of the lower House, and reported by the Committee. That upon search of Presidents their House might add to the Lords former additions to a Bill *pro Billa* Sabbath day. *V. tamen An.* 39 *Eliz.* 14 *Jan.* The Lords having returned to the Commons their Bill for Houses of Correction with amendments and Provisoes, the Commons prayed a Conference touching the said amendments and Provisoes.

The Lord yielded to the Conference thus far, to satisfie the Commons what moved their Lordships to make those amend-

amendments with this caution, that nothing can now be altered by the order of this House.

Amendments upon amendments were very usual in the times of *H.* 8. and Q. *Mary, prout An.* 32 *H.* 8. 2 *July* & 5. 12, 19, 21, 22 & 24 *July Billa annexorum honori de Petworth.*

An. 32. *H.* 8. 1 *Martii.* & 4. 5, 6, 10. & 18. *Martii. Billa* concerning the First Articles.

An. 35 *H.* 8. 4 *Martii. &c.*

Billa for the Lord decrees.

An. 37. *H.* 8 27 *No. &c.*

Billa pro Custode Rotulorum, &c.

An. 6 *H.* 8. 15 *Martii, & usq;* 3 *April. Billa Ducis Suff.*

An. 4 & 5. *Ph.* & *Mar.* 18 *Febr. &c. Billa* for Musters.

Anno 31 *H.* 8. 10. *Junii.* The Bill for the First Articles are sent to the Commons, 14 *Junii* it is returned with a Proviso, and expedited 16 *Junii*: And 24 *Junii*, the Lords and Commons agree to some amend-

ments. Afterwards the 27 *Junii*, the Lords agree to another Proviſoe, and ſend it with a Proviſoe to the Commons 28 *Junii*, who returned the Bill expedited the ſame day in the Afternoon.

An. 37 *H.* 8. The Bill for the *Cuſtos Rotulorum* returned from the Commons with a Proviſoe, rejected by the Lords, and ſent back to the Commons, and returned by them expedited (without the Proviſoe) 16 & 18 *Decembris.*

An. 4 *Jac.* 29 *Junii*, The Lords having returned to the Commons their Bill of Hoſtile Laws with amendments and a Proviſoe, the Commons prayed a Conference for conſideration thereof.

At the Conference they moved that they may clear their doubt of the ſaid amendments, and Proviſoe, either by amendment, or by another Proviſoe; of which kind of Proceeding, they affirmed they had good Preſidents of former times in like caſe.

And

And accordingly they did amend the ſame: And the Lords paſt the Bill after the third Reading thereof, *V. ib.* 3 *Junii & in pomeridiano.*

Amendment of the amendments how Lawful.

THe amendment of a Bill coming from the Commons (as hath been ſaid) are to be written in Paper and to be inſerted into the Bill by the Commons at the return thereof unto them. And if the Commons do think fit, that thoſe amendments be amended they are to ſignifie ſo much to the Lords and to move their Lordſhips to amend their own amendments before the ſame be aſſerted in the Bill. *V.* the Journal of the lower Houſe. *An.* 27 *Eliz.* 10 *Martii fol.* 132. The Bill againſt Jeſuits, *& ib. A.* 23 *Eliz.* 17 *Martii*, concerning the Borders of *Scotland*, where the Lords are prayed to amend the ſenſe of their own amendments;

thus

the Bill was sent them, and returned amended.

Divers Lords were of opinion the last Parliament *An.* 18 & 19 *Jac.* That a Bill might be amended after the third Reading.

But in the same Parliament 27 *No.* in the Bill for Suits, and 1 *Decembr.* in the Bill for Monopolies it was agreed *per plures* (but the question for it was denied) that it was against the orders of the House to recommit a Bill after the third Reading.

Yet it was agreed that a Bill might have a small amendment after the Third Reading, with which agreeth that *Anno* 27 *Eliz.* 13 *Martii.* In the Bill for Provision to be made for the Queens Royal Person, &c. which was thus amended of the Third Reading, and before it was put to the question (*viz.*) in the 24 line after this word (left) put out (so as) and in place thereof put in (foreseeing that) And such small amendments are usual after the Third Reading.

A Proviſoe added after the Third Reading, not uſual now.

Anno 35 *Eliz.* 9 *April.* A ſaving of the Queens Right, and all mens right added to the Bill for repealing of certain uſes, and concerning the Lands of *Anthony Coke* Eſq; was added to the Bill after the the Third Reading and Queſtion.

This Bill was ſent up by the Commons 28 *Martii* ~~& 6 *April*~~ it was Read the ~~Third~~ time and Expedited. The ſaving was added the 9 of *April* with this Caution, that the Lords upon weighty conſiderations have ordered that this ſhall not hereafter be drawn to make any Preſident. Then the Bill was returned to the Commons who ſent it up the ſame day expedited.

According to this order of *Anno* 35 *Eliz.* the Houſe hath forborn to add any

any thing to the Bill after the Third Reading *prout*, *Anno* 3. *Jac.* 13. *Martii* 3. *Vice lecta est Billa.* For the establishing of the possessions of *Edmund* late Lord *Chandois* of *Sudley*. And ordered that the late *Chandois* shall give security for the payment of 7000 *l.* to her Daughter *Katherine* before the Bill be sent to the Commons; For that the same is not sufficiently provided for by the Bill.

15 *Martii* this is referred to Mr Justice *Tanfeild*, and Mr Justice *Crook*, and they to acquaint the Lord Committees that were named on the Bill with the cause by them advised on. That the Lords might proceed for the security as they should find cause.

27 *Martii.* This Bill (with others) is sent down to the Commons with a recommendation from their Lordships, to be had by them touching assurance to be given for the said portion which was not remembred to their Lordships until the Bill was past this House.

But

But this order was not thus nicely obſerved, *tempore H.* 8. *An.* 6. *H.* 8. 1 *Martij Billa concernens debita Regia lecta eſt* 3.

3 *Martij lecta eſt* 4. *& Domini deliberabunt.*

15 *Martij lecta eſt* 5.

16 *Martij lecta eſt.*

20 *Martij lecta eſt & Domini deputaverunt principalem Juſticiorum & ad conſiniendum quendam effectum pro ſecuritate regia pro debitis ſuis obtinendis.*

Here it appears that at the third reading, the Lords not being agreed, the Bill was Read again the fourth time, yea and the 6. and 7. times, and at laſt the Lords appointed a new Bill to be drawn.

There are many Preſidents that Bills have been read oftner than thrice in that Kings Time, and of *E.* 6. by which it appears that Bills might then be recommitted after the third Reading. *V.* My Collection of thoſe Times

Times which I will not here relate: For that it is now constantly observed to Read Bills but thrice.

A Proviſoe added by the one Houſe, and deſired to be taken away by the other Houſe, whether Lawful.

THis was uſual in former times, yet in the Parliament 21 *Jac.* 28 *May* the Lords having returned unto the Commons their Bill for eaſe of Pleading of Licence of Alienations &c. with a Proviſoe, the Commons miſliking of the Proviſoe deſired a Conference, and moved to have the Proviſoe taken away, and ſome doubting and others affirming that this could not be done by the orders of the Houſe, the Commons framed a new Bill to that purpoſe without a Proviſoe, and ſent it up to the Lords the next morning, and with it returned the old Bill, and

and the Lords paſt this new Bill.

Anno 3 *H.* 8 24. *die Parliamenti Billa concernens Coriarios lecta eſt primo &c.* ſent to the Commons, & 29. *die Parliamentum aſſentita eſt, dempta additione.*

Anno 6 *H.* 8. 31 *die Martii Billa Duetis Suff. remiſſa eſt in domum communem, & due proviſiones eidem prius per Commiones annexæ abſtrahuntur & eodem die recepta eſt, ablatis proviſionibus prius annexis.*

Anno 1 & 2 *Ph. & Mar.* The Bill or the Supremacy of *Rome*, 4 *Jan.* a roviſoe added by the Commons niſliked, a new Bill made, and the old aken away by the Commons at the ords requeſt.

Anno 4 & 5 *Ph. & Mar.* The Bill of uſters returned from the Commons ith two Proviſoe's, and ſent back to ave them taken away, and return- d again with certain Corrections entioned in a ſchedule, expedited & 6 *Martii & prout M.* 6 *May.*

FINIS.

Errors of the Preſs, in the Opinions of th Antiquaries.

P. 1. l. ult. r. *Jure* : p. 3. l. 4. r. *Realm t the Statiſts* : l. 13. r. *Wittena motu* : p. 5. 17. r. *Seats* : p. 6. l. 11. after *obligeretur* ad *non ad id* : l. 13. r. *vaniſhed* : p. 7. l. 2. r *Regibus* : p. 10. l. penult. after *firſt* add *he the firſt* : p. 11. l. 4. r. *pro* : p. 14. l. 5. *vault* : p. 15. l. 21. r. *Servientibus* : p. 22. 4. r. *civitatem* : p. 38. l. 23. after *Hem* add *the firſt was* : l. ult. r. *H.* 1. p. 41. l. 5. *here ſome gather* : p. 46. l. 19. r. *tractatur*

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